

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Broadview Networks, Inc. for a  
Certificate of Public Convenience and Necessity to  
Provide Resold and Facilities-Based Local Exchange  
Telecommunications Services in the State of South  
Carolina and for Flexible Regulation

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET  
NUMBER: 2009 - - C

(Please type or print)

Submitted by: John J. Pringle, Jr.

Address: Ellis, Lawhorne & Sims, PA

PO Box 2285

Columbia SC 29202

SC Bar Number: 11208

Telephone: 803-343-1270

Fax: 803-799-8479

Other:

Email: jpringle@ellislawhorne.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda  
expeditiously

☐ Other:

INDUSTRY (Check one)

- ☐ Electric  
☐ Electric/Gas  
☐ Electric/Telecommunications  
☐ Electric/Water  
☐ Electric/Water/Telecom.  
☐ Electric/Water/Sewer  
☐ Gas  
☐ Railroad  
☐ Sewer  
☒ Telecommunications  
☐ Transportation  
☐ Water  
☐ Water/Sewer  
☐ Administrative Matter  
☐ Other:

NATURE OF ACTION (Check all that apply)

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Affidavit                 | <input type="checkbox"/> Letter                            | <input type="checkbox"/> Request                   |
| <input type="checkbox"/> Agreement                 | <input type="checkbox"/> Memorandum                        | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer                    | <input type="checkbox"/> Motion                            | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review          | <input type="checkbox"/> Objection                         | <input type="checkbox"/> Resale Agreement          |
| <input checked="" type="checkbox"/> Application    | <input type="checkbox"/> Petition                          | <input type="checkbox"/> Resale Amendment          |
| <input type="checkbox"/> Brief                     | <input type="checkbox"/> Petition for Reconsideration      | <input type="checkbox"/> Reservation Letter        |
| <input type="checkbox"/> Certificate               | <input type="checkbox"/> Petition for Rulemaking           | <input type="checkbox"/> Response                  |
| <input type="checkbox"/> Comments                  | <input type="checkbox"/> Petition for Rule to Show Cause   | <input type="checkbox"/> Response to Discovery     |
| <input type="checkbox"/> Complaint                 | <input type="checkbox"/> Petition to Intervene             | <input type="checkbox"/> Return to Petition        |
| <input type="checkbox"/> Consent Order             | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation               |
| <input type="checkbox"/> Discovery                 | <input type="checkbox"/> Prefiled Testimony                | <input type="checkbox"/> Subpoena                  |
| <input type="checkbox"/> Exhibit                   | <input type="checkbox"/> Promotion                         | <input type="checkbox"/> Tariff                    |
| <input type="checkbox"/> Expedited Consideration   | <input type="checkbox"/> Proposed Order                    | <input type="checkbox"/> Other:                    |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest                           |  |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit             |  |
| <input type="checkbox"/> Late-Filed Exhibit        | <input type="checkbox"/> Report                            |  |

Print Form

Reset Form

# ELLIS:LAWHORNE

John J. Pringle, Jr.  
Direct dial: 803/343-1270  
[jpringle@ellislawhorne.com](mailto:jpringle@ellislawhorne.com)

October 22, 2009

## **FILED ELECTRONICALLY**

The Honorable Charles L.A. Terreni  
Chief Clerk  
**South Carolina Public Service Commission**  
Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: Application of Broadview Networks, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Services in the State of South Carolina and for Flexible Regulation  
**Docket No. 2009-\_\_-C, ELS File No. 582-11679**

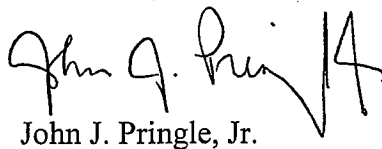
Dear Mr. Terreni:

Enclosed is the **Application** filed on behalf of Broadview Networks, Inc. in the above-referenced matter.

If you have any questions or need additional information, please do not hesitate to contact me.

With kind regards, I am

Yours truly,

  
John J. Pringle, Jr.

JJP/cr

cc: Office of Regulatory Staff (via electronic mail service)  
Mr. Charles C. Hunter (via electronic mail service)  
Catherine M. Hannan, Esquire (via electronic mail service)

Enclosures

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

<b>In the Matter of the Application of</b>	)	
	)	
<b>BROADVIEW NETWORKS, INC.</b>	)	
	)	<b>Docket No. _____</b>
<b>For a Certificate of Public Convenience and</b>	)	
<b>Necessity to Provide Resold and Facilities-</b>	)	
<b>Based Local Exchange Telecommunications</b>	)	
<b>Services in the State of South Carolina,</b>	)	
<b>and for Flexible Regulation</b>	)	

**APPLICATION OF BROADVIEW NETWORKS, INC.**

Broadview Networks, Inc. ("Broadview" or "Applicant"), by counsel, and pursuant to S.C. Code Ann. §58-9-280, respectfully requests that the South Carolina Public Service Commission (the "Commission") amend the Certificate of Public Convenience and Necessity previously granted to Broadview in order to allow Broadview to provide resold and facilities-based local exchange telecommunications service throughout the State of South Carolina. Broadview also requests flexible regulation for its local exchange telecommunications services as the Commission first granted in Order No. 98-165 in Docket No. 97-467-C. Broadview further requests, pursuant to R. 103-601(3) of the Commission's rules, that the Commission waive application to it of a particular Commission rule, as outlined herein.

Broadview proposes to offer resold and facilities-based local exchange services to customers throughout the geographic territory of South Carolina. Broadview anticipates that its customers will be primarily, though not exclusively, business customers. Approval of this application will promote the public interest by providing South Carolina telephone subscribers with cost advantages realized through the provision of competitive telecommunications services. Applicant's service will necessarily utilize existing carrier communications facilities more efficiently through increased usage. Telecommunications carriers will be empowered to provide

more efficient and reliable services at lower prices, thereby benefiting consumers. Moreover, the provision of a wider range of telecommunications service will bolster the State's economic health.

In support of its Application, Broadview respectfully submits as follows:

**1. The name and address of the Applicant are:**

Broadview Networks, Inc.  
800 Westchester Avenue, Suite N-501  
Rye Brook, NY 10573  
Telephone: (914) 922-7000  
Facsimile: (914) 922-7001  
E-mail: [www.broadviewnet.com](http://www.broadviewnet.com)

**2. All correspondence, notices, inquiries and other communications regarding this application should be addressed to:**

John J. Pringle, Jr.  
Ellis, Lawhorne & Sims, P.A.  
P. O. Box 2285  
Columbia, SC 29202  
Telephone: (803) 343-1270  
Facsimile: (803) 799-8479

With copies to:

Catherine M. Hannan  
Broadview Networks, Inc.  
800 Westchester Avenue, Suite N-501  
Rye Brook, NY 10573  
Telephone: (240) 461-0412  
Facsimile: (347) 287-0223

**3. Contact person regarding ongoing operations of the Company is:**

Brian Crotty  
Chief Operating Officer  
Broadview Networks, Inc.  
800 Westchester Avenue, Suite N-501  
Rye Brook, NY 10573  
Telephone: (914) 922-7000  
Facsimile: (408) 354-3551

#### **4. Description of Applicant**

Broadview is a corporation formed under the laws of the State of New York. A copy of Broadview's Articles of Incorporation, as amended, as well as a copy of Broadview's Certificate of Authority to Transact Business in the State of South Carolina, are attached hereto as **Exhibit**

A. Broadview Networks, Inc., is presently authorized by the Federal Communications Commission to provide interstate domestic and international telecommunications services pursuant to Section 214 of the Communications Act of 1934, as amended. Broadview is also certified, or otherwise authorized to provide interexchange long distance telecommunications services throughout the contiguous United States, including South Carolina. The Commission granted Broadview a Certificate of Public Convenience and Necessity to provide Resold and Facilities-Based Interexchange Telecommunications Services, by Order No. 2008-439 issued in Docket No. 2007-413-C.

Additionally, Broadview has authority to provide local exchange telecommunications services in California, Connecticut, the District of Columbia, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, Nevada, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia and Washington.

Broadview has also recently filed (or expects to file shortly) applications for local exchange authority in the remainder of the states within the contiguous United States in which it does not yet possess local exchange telecommunications service authority. Applicant has not had an application denied or rejected. Please see **Exhibit B**, however, for a discussion of Broadview's reactivation of its telecommunications operating authority in the State of Illinois.

#### **5. Officers and Directors and Legal Counsel**

Applicant's officers, directors and legal counsel are identified at **Exhibit C** hereto.

## **6. Customer Service**

Broadview provides live customer service during normal business hours, Monday through Friday. Applicant's toll-free number to receive customer complaints and inquiries is 800-689-2459. Broadview Customer Care representatives and 24-hour automated customer assistance allows customers to bring service, billing and repair questions or complaints to the Company's attention 24 hours a day, 7 days a week, facilitating the quick and efficient resolution of customer concerns. Customers may access Broadview Customer Care toll-free at (800) 276-2384 to initiate service complaints or to receive updates on reported problems or pending customer service complaints; customers may also contact Broadview Customer Care 24 hours a day via the Company's website, [www.broadviewnet.com](http://www.broadviewnet.com). Inquiries regarding service or billing may also be made in writing.

## **7. Financial Ability**

Broadview is financially well-poised to enter additional telecommunications markets and financially qualified to expand operations in South Carolina. In support of this Application, attached hereto as **Exhibit D**, Broadview's most recently filed Securities and Exchange Commission Form 10-Q, which contains all relevant financial information concerning the Company.

## **8. Managerial and Technical Ability**

Broadview's senior management team possesses significant experience in the area of telecommunications services. In addition, Broadview has provided high-quality, reliable local exchange and interexchange telecommunications services to business and residential customers across the country for many years. Guided by the senior management team, Broadview possesses sufficient technical and managerial experience to provide high-quality, reliable local

exchange telecommunications services throughout South Carolina. Management biographies of Broadview's Executive Team are attached hereto as **Exhibit E**.

#### **9. Description of Services Offered and Proposed Service Territory**

Applicant proposes to provide facilities-based and resale competitive local exchange services to commercial and residential subscribers throughout the State of South Carolina. Broadview's local service offering to local exchange single-line and multi-line business and residential customers in the State of South Carolina will include, but will not be limited to, basic two-way local business and residential lines, custom calling features (such as three way calling, call forward, call waiting, speed calling), CLASS service features (such as caller I.D., automatic redial/recall, customer originated trace), busy verification and interrupt service, trap circuit service, Centrex services, Integrated Services Digital Network (ISDN) Services, private line services, PBX trunk access, and direct inward dialing (DID) services. In addition, Broadview will offer dual-party relay service, 9-1-1 Emergency Services, directory assistance and operator assisted calls.

As an initial matter, Broadview will not be installing any facilities other than equipment to be installed in existing buildings or structures for the purpose of providing local exchange service in South Carolina. This equipment may include switches; the location of these switches has yet to be determined and will be developed by Broadview as it progresses in its interconnection agreement discussions. Broadview will also lease transmission and loop facilities. Broadview will utilize this manner of providing service to its customers in South Carolina until such time as it makes financial and operational sense to deploy additional equipment and facilities in South Carolina. Broadview's proposed local exchange services tariff is attached hereto as **Exhibit F**.

## **10. Public Interest and Need**

The granting of Broadview's application is consistent with S.C. Code Ann. § 58-9-280(B), and, in that regard, Broadview makes the following representations to the Commission:

1. Broadview possesses the requisite technical, financial and managerial resources sufficient to provide the services requested;
2. Broadview's services will meet service standards required by the Commission;
3. The provision of services by Broadview will not adversely impact the availability of affordable telecommunications service;
4. Broadview, to the extent it is required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and
5. The provision of services by Broadview will not adversely impact the public interest.

Grant of Broadview's Application for a Certificate of Public Convenience and Necessity to provide the service described within this Application is in the public interest and will serve the public convenience and necessity. The public interest will be served by expanding the availability of competitive telecommunications services and enhanced telecommunications infrastructure in the State of South Carolina, thereby facilitating economic development. Authorizing Broadview to enter the telecommunications service market will increase the competitive choices available, and in turn create incentives for all carriers to lower prices, provide new and better quality services, and be more responsive to customer issues and demands.

## **11. Waiver and Regulatory Compliance**

Broadview requests that, pursuant to Rule 103-601(3), the Commission grant it a waiver of those regulatory requirements that are inapplicable to Broadview's services because compliance with such rules would cause Broadview unusual hardship.<sup>1</sup>

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<sup>1</sup> S.C. Code Regs. § 103-601(3). ("In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more



Specifically, Broadview requests a waiver of the following Commission Rule:

Rule 103-610: requiring a utility to maintain its records in the State of South Carolina.

Broadview is headquartered in New York. As a result, it would be impractical for Broadview to maintain separate records in South Carolina. If the Commission or the South Carolina Office of Regulatory Staff (ORS) determines it is necessary to review Broadview's books, Broadview will provide this information to the Commission or the ORS upon request or will bear the cost of any out-of-state travel expenses incurred by Commission or ORS staff.

Waiver of this rule has been granted under similar circumstances by the Commission, and Broadview respectfully requests that the Commission similarly grant the aforementioned waiver in the context of this Application.

## **12. Flexible Regulation of Local Exchange Services**

Broadview requests flexible regulation for its telecommunications services as the Commission granted in Order No. 96-165 in Docket No. 97-467-C. In the Order, the Commission adopted a rate structure that incorporated maximum rate levels with the flexibility for rate adjustment below the maximum rate levels. The Commission also determined that local tariff filings would be presumed valid upon filing, subject to the Commission's right within thirty days to institute an investigation of the tariff filing, and that any tariff filings would be subject to the same monitoring process as other similar local exchange carriers. Broadview submits that as a provider of competitive local exchange services, it should be subject to regulatory constraints no more stringent than those imposed in Docket No. 97-467-C. Broadview respectfully requests that its local exchange service tariff filings be regulated pursuant to this form of flexible regulation.

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rules or regulations is otherwise appropriate, such rule or regulation may be waived by the Commission upon a finding by the Commission that such a waiver is not contrary to the public interest.”)

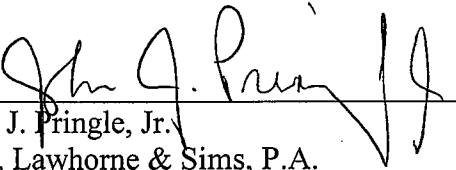
### 13. CONCLUSION

This Application clearly demonstrates that Broadview possesses the requisite technical, financial and managerial qualifications to provide resold and/or facilities-based local exchange telecommunications services throughout the State of South Carolina. Furthermore, granting this Application for a Certificate of Public Convenience and Necessity will promote the public interest, comport with the public convenience and necessity, and meet pertinent legal and regulatory requirements for such applications.

WHEREFORE, Broadview Networks, Inc., respectfully requests that the Commission issue it a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange telecommunications services throughout the State of South Carolina, as proposed herein and set forth in the attached tariffs. Broadview also requests that the Commission regulate its local exchange service in accordance with the principles and procedures established in Order No. 98-165 in Docket No. 97-467-C, grant the waiver requested herein, and grant such other relief as is just and proper.

Respectfully submitted,

BROADVIEW NETWORKS, INC.

By:   
John J. Pringle, Jr.  
Ellis, Lawhorne & Sims, P.A.  
P. O. Box 2285  
Columbia, SC 29202  
(803) 343-1270

Columbia, South Carolina  
October 22, 2009



**BROADVIEW NETWORKS, INC.**

**SCHEDULE OF EXHIBITS**

Exhibit A	Articles of Incorporation/ Certificate of Authority to Transact Business
Exhibit B	Reactivation of Illinois Telecommunications Authority
Exhibit C	Broadview Officers, Directors and Legal Counsel
Exhibit D	Financial Information
Exhibit E	Biographies of Key Personnel
Exhibit F	Proposed Local Tariff
Exhibit G	Proposed Notice of Filing

**Exhibit A**

**Articles of Incorporation/  
Certificate of Authority to Transact Business**

**STATE OF NEW YORK**  
**DEPARTMENT OF STATE**

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 24, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

F910605000194

## CERTIFICATE OF INCORPORATION

OF

BRIAR JOY DEVELOPMENT CORPORATION

Under Section 402 of the Business Corporation Law

IT IS HEREBY CERTIFIED THAT:

- (1) The name of the Corporation is:

BRIAR JOY DEVELOPMENT CORPORATION

- (2) The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized pursuant to the Business Corporation Law of the State of New York. The Corporation is not to engage in any act or activity requiring any consents or approvals by law without such consent or approval first being obtained.

For the accomplishment of the aforesaid purposes, and in furtherance thereof, the Corporation shall have, and may exercise, all of the powers conferred by the Business Corporation Law upon corporations formed thereunder, subject to any limitations contained in Article 2 of said law or in accordance with the provisions of any other statute of the State of New York.

- (3) The number of shares which the Corporation shall have the authority to issue is 200 at no par value.

- (4) The principal office of the corporation is to be located in the County of St. Lawrence, State of New York.

- (5) The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is:

c/o Thomas J. Lynch, Esq.  
4514 Wilderness Way  
Syracuse, NY 13215

The undersigned incorporator is of the age of eighteen years or older.

IN WITNESS WHEREOF, this certificate has been subscribed this 4th day of June, 1991 by the undersigned who affirms that the statements made herein are true under the penalties of perjury.

Joan Terry  
Joan Terry, Incorporator

559 Central Avenue, Albany, NY 12205  
Attorney

F 910605000 INFO

## CERTIFICATE OF INCORPORATION

OF  
BRIAR JOY DEVELOPMENT CORPORATIONSTATE OF NEW YORK  
DEPARTMENT OF STATE

FILED JUN 05 1981

TAX \$

BY:

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SAC  
St. Lawrence

## FILER:

THOMAS J. Lynch, Esq.  
4514 Wilderness Way  
Syracuse, NY 13215

REFERENCE # 15192-018066

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***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 24, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

**CERTIFICATE OF AMENDMENT  
OF THE CERTIFICATE OF INCORPORATION  
OF BRIAR JOY DEVELOPMENT CORPORATION**  
Under Section 805 of the Business Corporation Law

95063000023

PURSUANT to the provisions of Section 805 of the Business Corporation Law, the undersigned, being the President and Secretary of Briar Joy Development Corporation (the "Corporation"), do hereby certify and set forth:

**FIRST:** The name of the Corporation is Briar Joy Development Corporation.

**SECOND:** The Certificate of Incorporation of the Corporation was filed with the Department of State on June 5, 1991.

**THIRD:** (a) Paragraph 3 of the Certificate of Incorporation relating to the authorization of shares is hereby changed to read as follows:

The number of common shares which the Corporation shall have the authority to issue is 2,500,000 at par value of \$ .50 per share.

(b) There are presently 200 shares of no par value common stock authorized, of which 110 shares are issued and outstanding and 90 shares are unissued. The amendment to the Certificate of Incorporation is provided for: (1) change the 110 shares of authorized and issued stock at the rate of 1 to 1 to 110 shares of authorized and issued common stock at \$ .50 par value, and to change the 90 shares of authorized and unissued stock at the rate of 1 to 1 to 90 shares of common stock at \$ .50 par value; and (2) increase the authorized shares of common stock from 200 to 2,500,000 common stock. As a result of this change, there will be 110 shares of common stock issued and outstanding at \$ .50 par value, and 2,499,890 shares authorized and unissued, at \$ .50 par value per share.

**FOURTH:** Paragraph 5 of the Certificate of Incorporation relating to the service of process is hereby changed to read as follows:

The Secretary of State is designated as agent of the Corporation upon whom process against it may served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon it is as follows:

Briar Joy Development Corporation  
108 East Washington Street  
Syracuse, New York 13202

**FIFTH:** The following paragraph shall be added to the Certificate of Incorporation as Paragraph 6, as follows:

The directors of the Corporation shall not be personally liable to the Corporation or its shareholders for damages for any breach of duty in such capacity occurring after the adoption of the provisions authorized in this Certificate of Incorporation, provided, however, that the provisions contained herein shall not eliminate or limit such directors' liability if a judgment or other final adjudication adverse to the director establishes that the director's acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of the law, or that the director personally gained in fact a financial profit or other advantage to which the director was not legally entitled, or that the director's acts violated the provisions of Section 719 of the New York Business Corporation Law.

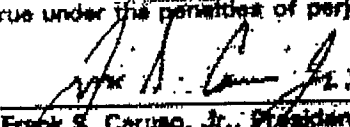
SIXTH: The following paragraph shall be added to the Certificate of Incorporation

as Paragraph 7, as follows:

The Corporation shall, to the fullest extent permitted by Article 7 of the Business Corporation Law of the State of New York, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said Article from and against any and all of the expenses, liabilities, or other matters referred to in or covered by said Article, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which any person may be entitled under any By-Law, resolution of shareholders, resolution of directors, agreement, or otherwise, as permitted by said Article, as to action in any capacity in which he served at the request of the Corporation.

SEVENTH: The foregoing amendment was authorized by unanimous vote of the Board of Directors of the Corporation, followed by a vote of the holders of a majority of all the outstanding shares entitled to vote at a meeting of the shareholders, which was held on May 3, 1995.

IN WITNESS WHEREOF, this Certificate of Amendment of the Certificate of Incorporation has been subscribed this 27th day of June, 1995, by the undersigned who affirm that the statements made herein are true under the penalties of perjury.

  
Frank S. Caruso, Jr., President

  
Frank S. Caruso, Sr., Secretary

**F050630000263**

I, THE UNDERSIGNED, AN ATTORNEY ADMITTED TO PRACTICE  
IN THE COURTS OF NEW YORK STATE, HEREBY CERTIFY THAT  
THE ANNEXED  
HAS BEEN COMPARED BY ME WITH THE ORIGINAL AND IS A  
TRUE AND COMPLETE COPY THEREOF.

ATTORNEY

IT IS HEREBY CERTIFIED THAT THE WITHIN IS A  
TRUE AND COMPLETE COPY OF A  
CERTIFICATE OF INCORPORATION OF  
THE OFFICE OF THE  
NEW YORK

ATTORNEY

CERTIFICATE OF AMENDMENT OF THE  
CERTIFICATE OF INCORPORATION OF  
BRIAR JOY DEVELOPMENT CORPORATION

JUN 20 11 45 AM '08

Re: Re: Ruth Kline Receipt to:  
Rifken, Frankel, Greenman & Kline  
5789 Widenawers Parkway  
Post Office Box 450  
Devitt, New York 11214-0450

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED JUN 20 2008

FAX 615 792 3022

BY J. H. H. H.

J. H. H. H.

VANGUARD-52

**BILLED**

*OK 6/15/08  
Jat*

**F050630000263**

***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 24, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

F970820000296

**CERTIFICATE OF AMENDMENT OF THE  
CERTIFICATE OF INCORPORATION OF  
BRIAR JOY DEVELOPMENT CORPORATION**

Under Section 805 of the Business Corporation Law

VANGUARD-52

Pursuant to the provisions of Section 805 of the Business Corporation Law, the undersigned, being the President and Secretary of Briar Joy Development Corporation (the "Corporation"), do hereby certify and set forth:

**FIRST:** The name of the Corporation is Briar Joy Development Corporation.

**SECOND:** The Certificate of Incorporation of the Corporation was filed with the Department of State on June 5, 1991

**THIRD:** Paragraph 3 of the Certificate of Incorporation, relating to the authorization of shares is hereby changed to read as follows:

The number of common shares which the Corporation shall have the authority to issue is 2,500,000 at \$0.10 par value per share.

**FOURTH:** There are presently 2,500,000 shares of stock at \$0.50 par value common stock authorized, of which 1,429,856 shares have been issued and outstanding and 1,070,144 shares remain unissued. The Amendment to the Certificate of Incorporation is intended to provide 1,429,856 shares issued and outstanding at \$0.50 par value per share to be changed into 1,429,856 shares issued and outstanding at \$0.10 par value per share at the rate of 1:1; and there will be 1,070,144 shares unissued at \$0.50 par value per share that will be changed into 1,070,144 shares unissued at \$0.10 par value per share at the rate of 1:1.

**FIFTH:** The above and foregoing amendment to the Certificate of Incorporation was authorized by unanimous vote of the Board of Directors of the Corporation, followed by a majority vote of the holders of a majority of all the outstanding shares entitled to vote therein at a meeting of the shareholders held on the 13<sup>th</sup> day of August, 1997

IN WITNESS WHEREOF, this Certificate of Change of the Certificate of Incorporation has been subscribed this 19 day of August, 1987, by the undersigned who affirm that the statements made herein are true under the penalties of perjury.

Frank S. Caruso, Jr. Pres.  
Frank S. Caruso, Jr., President

Andrea Osborne  
Andrea Osborne, Secretary

9970820000296

CERTIFICATE OF AMENDMENT OF THE  
CERTIFICATE OF INCORPORATION OF  
BRIAR JOY DEVELOPMENT CORPORATION

Aug 20 10 02 AM

RECEIVED

STATE OF NEW YORK  
DEPARTMENT OF STATE

VANGUARD-52

FILED AUG 20 1997

TAX \$

BY: JAH

St. Lawrence

BILLED

Filer.

Rifken, Frankel & Greenman, P.C.  
5789 Widewaters Parkway  
DeWitt, New York 13214-2811  
Telephone: (315) 449-0737

3

9970820000302



**STATE OF NEW YORK**  
**DEPARTMENT OF STATE**

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 24, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

F 971002000358  
CERTIFICATE OF MERGER  
OF  
SCC TELECOMMUNICATIONS, INC.  
INTO  
BRIAR JOY DEVELOPMENT CORPORATION

VANGUARD-52

UNDER SECTION 904 OF THE BUSINESS CORPORATION LAW

The undersigned, being the President and the Secretary, respectively, of SCC Telecommunications, Inc., and being the President and the Secretary of Briar Joy Development Corporation, both corporations being domestic corporations organized and existing under and by virtue of the laws of the State of New York, and a plan of merger having been adopted by the Board of Directors of each constituent corporation, do hereby certify:

- (1) The name of each constituent corporation is as follows:

SCC Telecommunications, Inc.  
Briar Joy Development Corporation

- (2) The surviving corporation is Briar Joy Development Corporation, which shall as of the effective date of the merger change its corporate name to "SCC Telecommunications, Inc."

- (3) The designation, number, and voting rights of the outstanding shares of each constituent corporation are as follows:

- a) SCC Telecommunications, Inc. has 1,000 shares of capital stock outstanding all of which is common stock and fully entitled to vote.
- b) Briar Joy Development Corporation has 1,839,856 shares of capital stock outstanding all of which is common stock and fully entitled to vote.

- (4) The date when the Certificate of Incorporation of SCC Telecommunications, Inc. was filed by the Department of State is the 26<sup>th</sup> day of August, 1997.

The date when the Certificate of Incorporation of Briar Joy Development Corporation was filed by the Department of State is the 5<sup>th</sup> day of June, 1991.

- (5) The merger of SCC Telecommunications, Inc. and Briar Joy Development Corporation was authorized in respect to SCC Telecommunications, Inc., a constituent corporation, by the vote of the sole holder of its capital stock on September 18, 1997.

The merger of SCC Telecommunications, Inc. and Briar Joy Development Corporation was authorized in respect to Briar Joy Development Corporation, a constituent corporation, by resolution of the Board of Directors of Briar Joy Development Corporation on September 18, 1997 and by a vote of holders of at least two-thirds of the outstanding shares of capital stock of Briar Joy Development Corporation present and voting at a special meeting of shareholders duly called, noticed, and held in accordance with §903 of the Business Corporation Law, on September 29, 1997, where the affirmative votes were cast with respect to shares which constituted not less than a quorum.

IN WITNESS WHEREOF, the undersigned have executed and signed this Certificate on this 30th day of September, 1997 and affirm that the statements made herein are true under the penalties of perjury.

**BRIAR JOY DEVELOPMENT CORPORATION**

By: *Frank S. Caruso, Jr.*  
Frank S. Caruso, Jr., President

By: *Andrea V. Osborne*  
Andrea Osborne, Secretary

**SCC TELECOMMUNICATIONS, INC.**

By: *Vern M. Kennedy*  
Vern M. Kennedy, President

By: *Terrence J. Anderson*  
Terrence J. Anderson, Secretary

f 971002000387

CERTIFICATE OF MERGER OF  
SCC TELECOMMUNICATIONS, INC.

INTO

BRIAR JOY DEVELOPMENT CORPORATION

UNDER SECTION 904 OF THE BUSINESS CORPORATION LAW

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED OCT 02 1997

TAXS

BY:

ST. LAWRENCE

Filer:

Rifken, Frankel & Greenman, P.C.  
5789 Widewaters Parkway  
DeWitt, New York 13214-2811  
Telephone: (315) 449-0737

VANGUARD-52

BILLED

OCT 2 10 11 AM '97

RECEIVED

FILED  
OCT 2 1997

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**STATE OF NEW YORK**  
**DEPARTMENT OF STATE**

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 24, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

Duquette &amp; Tipton LLP

212 687 2835

04/20 '98 10:35 NO.032 03/03

IN WITNESS WHEREOF, the undersigned have hereunto signed their names  
and do verify and affirm, under penalty of perjury, that the statements contained herein are  
true and correct and that this Certificate of Amendment is the act and deed of the Corporation  
as of this 16<sup>th</sup> day of April, 1998.

By: 

Vern J. Kennedy, President

By: 

Terrence J. Anderson, Secretary

2

CSC 45

CSC 45

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CERTIFICATE OF AMENDMENT OF THE CERTIFICATE OF INCORPORATION

OF

SCC TELECOMMUNICATIONS, INC.

Under Section 805 of the Business Corporation Law

FILED

APR 21 3 14 PM '98

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED APR 21 1998

TAX \$

BY:

DUQUETTE & TIPTON LLP  
405 Lexington Avenue  
New York, NY 10174

787715 mlb

RECEIVED

APR 21 2 11 PM '98

BILLED

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30421000

**STATE OF NEW YORK**  
**DEPARTMENT OF STATE**

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 24, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State



CT-07

1999 84:16 C.F. 5/5/99 212 315 2789 P. 82/83

F 991006000688

**CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
COMMUNITY NETWORKS, INC.**

Under Section 805 of the New York Business Corporation Law

The undersigned, Vern M. Kennedy, President, and Terrence J. Anderson, Secretary, of COMMUNITY NETWORKS, INC., a New York corporation (the "Corporation"), hereby certify as follows:

1. The name of the Corporation is Community Networks, Inc. The name under which the Corporation was formed is Briar Joy Development Corporation.

2. The Certificate of Incorporation of the Corporation (the "Certificate of Incorporation") was originally filed in the Office of the Secretary of State of the State of New York on June 5, 1991.

3. The Certificate of Incorporation is hereby amended to change the name of the Corporation to Broadview Networks, Inc. by deleting Article FIRST in its entirety and replacing it with the following:

FIRST: The name of the Corporation is Broadview Networks, Inc.

4. The foregoing amendment was duly authorized pursuant to Sections 615, 708 and 803(a) of the New York Business Corporation Law, to wit, by a unanimous written consent of the directors of the corporation, followed by the written consent of the sole shareholder of the Corporation.

CORP. SYSTEM

212 315 2789 P.00/84

IN WITNESS WHEREOF, the undersigned have hereunto signed their names and do verify and affirm, under penalty of perjury, that the statements contained herein are true and correct and that this Certificate of Amendment is the act and deed of the Corporation as of this 5th day of October, 1999.

By: /s/ Vern M. Kennedy

Name: Vern M. Kennedy

Title: President

By: /s/ Terrence J. Anderson

Name: Terrence J. Anderson

Title: Secretary

14324002 1 100780 1243 8 990409-44

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C. L. SYSTEM

212 315 2785

991006000688

CT-07

CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION  
OF  
COMMUNITY NETWORKS, INC.  
UNDER SECTION 805 OF THE BUSINESS CORPORATION LAW

MAYER BROWN & PLATT  
1675 BROADWAY  
NEW YORK, NY 10019

12/1 3 56 PM '99

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED OCT 6 1999

TAXS

BY:

*Timb*  
*St Lawrence*

RECEIVED

OCT 6 3 47 PM '99

3

991006000 727

TOTAL F/04

***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 24, 2007.



*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

CT-07

F 000503000 246

CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
BROADVIEW NETWORKS, INC.

Under Section 805 of the Business Corporation Law

The undersigned, Verna M. Kennedy, President and Terrence J. Anderson, Secretary of BROADVIEW NETWORKS, INC., a New York corporation (the "Corporation"), hereby certifies as follows:

FIRST: The name of the corporation (the "Corporation") is BROADVIEW NETWORKS, INC. The name under which the Corporation was formed is Brian Jay Development Corporation.

SECOND: The Certificate of Incorporation of the Corporation (the "Certificate of Incorporation") was originally filed in the Office of the Secretary of State of the State of New York on June 5, 1991.

THIRD: Paragraph 2 of the Certificate of Incorporation relating to purpose for which the Corporation is organized is changed to read as follows:

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the business corporation law of the State of New York. The Corporation is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency, or other body without such consent or approval first being obtained.

FOURTH: Paragraph 3 of the Certificate of Incorporation is hereby amended to decrease the current 2,500,000 shares of common stock at par value of \$0.10 of which 1,839,856 shares are presently issued and outstanding and 660,144 shares are unissued to 1,000 shares of common stock at a par value of \$0.01 of which 1,000 are issued. There will be no unissued shares of common stock.

The rate of change of the issued is 1,839,856

FIFTH: (a) The aggregate number of shares which the Corporation shall have authority to issue is one thousand (1,000), all of which are of a par value of \$0.01 each, and all of which are of the same class.

FIFTH: Paragraph 4 of the Certificate of Incorporation relating to the principal office of the corporation is hereby changed to read as follows:

The office of the Corporation is to be located in New York County, State of New York.

SIXTH: Paragraph 5 of the Certificate of Incorporation relating to designation of an agent for the service of process is hereby changed to read as follows:

The Secretary of State is designated as the agent of the Corporation upon whom process against it may be served. The post office address to which the secretary of state shall mail a copy of any process against it served upon him is Broadview Networks Holdings, Inc., 45-18 Court Square, Ste 502, Long Island City, New York 11103, Attn: President.

SEVENTH: Paragraph 6 of the Certificate of Incorporation relating to director liability is hereby changed to read as follows:

No director shall be personally liable to the Corporation or its shareholders in his capacity as a director to any person or entity (including the Corporation) for damages for any breach of any duty, except that this provision shall not eliminate or limit the liability of any director if a judgment or other final adjudication adverse to such director establishes that (i) such director's acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law, (ii) such director personally gained in fact a financial profit or other advantage to which such director was not legally entitled, or (iii) that such director's act violated Section 749 of the BCL, or (iv) the acts or omissions complained of occurred prior to the date of filing of this Certificate of Incorporation. If the BCL is amended, changed or modified to authorize corporate action further eliminating or limiting the personal liability of directors to the Corporation, its shareholders or third parties, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the BCL, as so amended, changed or modified. Any repeal, amendment or modification of the provisions of this paragraph by the shareholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation relating to claims arising in connection with events which took place prior to the date of such repeal, amendment or modification.

EIGHTH: Paragraph 7 relating to indemnification permitted by Article 3 of the BCL is hereby deleted and replaced with:

The Corporation is to have perpetual existence

NINTH: The following amendments were authorized by a unanimous vote of the Board of Directors of the Corporation, followed by the vote of the sole holder of its capital stock.

IN WITNESS WHEREOF, the undersigned have hereunto signed their names and do verify and affirm, under penalty of perjury, that the statements contained herein are true and correct and that this Certificate of Amendment is the act and deed of the Corporation as of the 3rd day of May, 2000.

By: Vern M. Kennedy  
Name: Vern M. Kennedy  
Title: President

By: Terence J. Anderson  
Name: Terence J. Anderson  
Title: Secretary

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CERTIFICATE OF AMENDMENT AND RESTATEMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
BROADVIEW NETWORKS, INC.  
UNDER SECTION 805 OF THE BUSINESS CORPORATION LAW

CL 07

MAY 3 11 02 AM '08

Mayer Brown & Platt  
1675 Broadway  
New York, NY 10019

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STATE OF NEW YORK  
DEPARTMENT OF STATE

MAY 01 2008

FILED

TAXES NOT BY

BY: NOTAR

St Lawrence

Key

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000503000 262

TOTAL P. 04

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INFO

## CERTIFICATE OF INCORPORATION

NEWARK JOY DEVELOPMENT CORPORATION

Under Section 402 of the Business Corporation Law

IT IS HEREBY CERTIFIED THAT:

(1) The name of the corporation is:

NEWARK JOY DEVELOPMENT CORPORATION

(2) The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized pursuant to the Business Corporation Law of the State of New York. The Corporation is not to engage in any act or activity requiring any consents or approvals by law without such consent or approval first being obtained.

For the accomplishment of the aforesaid purposes, and in furtherance thereof, the Corporation shall have, and may exercise, all of the powers incident to the business Corporation Law upon corporations formed thereunder, subject to any limitations contained in Article 2 of said law or in accordance with the provisions of any other statute of the State of New York.

(3) The number of shares which the Corporation shall have the authority to issue is 300 at no par value.

(4) The principal office of the Corporation is to be located in the County of St. Lawrence, State of New York.

(5) The Secretary of State is designated agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation is as follows:

c/o Thomas J. Knecht, Inc.  
4514 Wilderness Way  
Syracuse, NY 13212

The undersigned incorporator is on this day of June, 1991, years of age.

IN WITNESS WHEREOF, this certificate has been signed and the 4th day of June, 1991 by the undersigned and attested that the statements made herein are true under the penalties of perjury.

JOHN TERRY, Incorporator

JOHN TERRY, Secretary



**910605000 INFO**

**CERTIFICATE OF INCORPORATION**

**ARIZON JOT DEVELOPMENT CORPORATION**

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILE NO. 05-1001

TAX# 10

BY *MAC*

*St. Lawrence*

*SC310*

THOMAS J. LYNN, Esq.  
4514 WASHINGTON WAY  
SYRACUSE, NY 13215

REVENUE & TAXATION

**INFO. BILL**

**CERTIFICATE OF AMENDMENT  
OF THE CERTIFICATE OF INCORPORATION  
OF BILAR JOY DEVELOPMENT CORPORATION**  
Under Article 22 of the Business Corporation Law

**VANGUARD-52**

Pursuant to the provisions of Section 905 of the Business Corporation Law, the undersigned, being the President and Secretary of Bilar Joy Development Corporation, the "Corporation", do hereby certify and set forth:

**FIRST:** The name of the Corporation is Bilar Joy Development Corporation.

**SECOND:** The Certificate of Incorporation of the Corporation was filed with the Department of State on June 4, 1991.

**THIRD:** (a) Paragraph 3 of the Certificate of Incorporation relating to the authorization of shares is hereby changed to read as follows:

The number of common shares which the Corporation shall have the authority to issue is 2,500,000 at par value of \$1.00 per share.

(b) There are presently 200 shares of no par value common stock authorized, of which 110 shares are issued and outstanding and 90 shares are unissued. The amendment to the Certificate of Incorporation authorized the Corporation to issue and transfer common stock at the rate of 1 to 1 to 110 shares of authorized and unissued common stock at \$1.00 per value, and to transfer the 90 shares of authorized and unissued common stock at the rate of 1 to 1 to 90 shares of authorized and unissued common stock at the rate of 1 to 1 to 90 shares of authorized and unissued common stock. As a result of this change, there will be 110 shares of common stock issued and outstanding at \$1.00 value, and 2,499,890 shares authorized and unissued at \$1.00 per value per share.

**FOURTH:** Paragraph 6 of the Certificate of Incorporation relating to the service of process is hereby changed to read as follows:

The Secretary of State is designated as agent of the Corporation upon whom process against it may served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon it is as follows:

Bilar Joy Development Corporation  
100 East Washington Street  
Syracuse, New York 13202

**FIFTH:** The following paragraph shall be added to the Certificate of Incorporation as Paragraph 8, as follows:

The directors of the Corporation shall not be personally liable to the Corporation or its shareholders for damages for any breach of duty in such capacity occurring after the adoption of the provisions authorized in this Certificate of Incorporation, provided, however, that the provisions contained herein shall not eliminate or limit such director's liability if a judgment or other final action adverse to this director establishes that the director's action or omission was in bad faith or involved intentional misconduct or a knowing violation of the law, or that the director personally gained in fact a financial profit or other advantage to which the director was not legally entitled, or that the director's acts violated the provisions of Section 719 of the New York Business Corporation Law.

SIXTH: The following paragraph shall be added to the Certificate of Incorporation as Paragraph 7, as follows:

The Corporation shall, to the fullest extent permitted by Article 7 of the Business Corporation Law of the State of New York, as the same may be amended and supplemented, indemnify and all persons whom it shall have power to indemnify under said Article from and against any and all of the expenses, liabilities, or other matters referred to in or covered by said Article, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which any person may be entitled under any by-law, resolution of shareholders, resolution of directors, agreement, or otherwise, as permitted by said Article, as to action in any capacity in which he served at the request of the Corporation.

SEVENTH: The foregoing amendment was authorized by unanimous vote of the Board of Directors of the Corporation, followed by a vote of the holders of a majority of all the outstanding shares entitled to vote at a meeting of the shareholders, which was held on May 3, 1995.

IN WITNESS WHEREOF, this Certificate of Amendment of the Certificate of Incorporation has been subscribed this 27th day of June, 1995, by the undersigned who affirm that the statements made herein are true under the penalties of perjury.

1s/ Frank S. Caruso, Jr.

Frank S. Caruso, Jr., President

1s/ Frank S. Caruso, Sr.

Frank S. Caruso, Sr., Secretary

**UNQUAED 52**

**BILLED**

*244*  
*0519-707*

Return Billing Address to:  
Kilham, Frankel, Gorman & Kling  
1119 Wilderness Parkway  
West Office Bldg 450  
Dorset, New York 12014-0450

PLEASE PRINT NAME AND TITLE OF THE PARTY TO WHOM THIS BILL IS BEING SENT  
NAME AND TITLE OF THE PARTY TO WHOM THIS BILL IS BEING SENT  
ADDRESS AND CITY, STATE AND ZIP  
CITY, STATE AND ZIP

60703 20000046  
CERTIFICATE OF AMENDMENT OF THE  
CERTIFICATE OF INCORPORATION OF  
BRIAR JOY DEVELOPMENT CORPORATION

Under Section 905 of the Business Corporation Law

Pursuant to the provisions of Section 905 of the Business Corporation Law, the undersigned, being the President and Secretary of Briar Joy Development Corporation (the "Corporation"), do hereby certify and set forth:

FIRST: The name of the Corporation is Briar Joy Development Corporation.

SECOND: The Certificate of Incorporation of the Corporation was filed with the Department of State on June 11, 1997.

THIRD: Paragraph 3 of the Certificate of Incorporation, relating to the authorization of shares is hereby changed to read as follows:

The number of common shares which the Corporation shall have the authority to issue is 2,500,000 at \$0.10 par value per share.

FOURTH: There are presently 2,500,000 shares of stock at \$0.50 per value common stock authorized, of which 1,429,858 shares have been issued and outstanding and 1,070,144 shares remain unissued. The Amendment to the Certificate of Incorporation is intended to provide 1,429,858 shares issued and outstanding at \$0.50 par value per share to be changed into 1,429,858 shares issued and outstanding at \$0.10 par value per share at the rate of 1:1 and there will be 1,070,144 shares unissued at \$0.50 par value per share that will be changed into 1,070,144 shares unissued at \$0.10 par value per share at the rate of 1:1.

FIFTH: The above and foregoing amendment to the Certificate of Incorporation was authorized by unanimous vote of the Board of Directors of the Corporation, followed by a majority vote of the holders of a majority of all the outstanding shares entitled to vote therein at a meeting of the shareholders held on the 13<sup>th</sup> day of August, 1997.

IN WITNESS WHEREOF, this Certificate of Change of the Certificate of Incorporation has  
been subscribed and attested this 1st day of August, 1997, by the undersigned who state that the  
statements made herein are true under the penalties of perjury.

/s/ Frank S. Caruso, Jr.

Frank S. Caruso, Jr., President

/s/ Andrew V. Osborne

Andrew Osborne, Secretary

(97082000022)

CERTIFICATE OF AMENDMENT OF THE  
CERTIFICATE OF INCORPORATION OF  
BRIAR JOY DEVELOPMENT CORPORATION

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED AUG 20 1997  
TAXES  
BY: *St. Lawrence*

VANGUARD-52

*18* St. Lawrence

BILLED

Filed: Milken, Frankel & Greenman, P.C.  
6788 Widawaters Parkway  
DeWitt, New York 13214-2811  
Telephone: (315) 440-0797

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97082000022

Duquette &amp; Tipton LLP 212 687 2835

04/20/98 10:33 NO: 032-02/03

CSC 45

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CSC 45

**CERTIFICATE OF AMENDMENT OF THE  
CERTIFICATE OF INCORPORATION  
OF  
SCC TELECOMMUNICATIONS, INC.**

Under Section 905 of the Business Corporation Law

The undersigned, Vern M. Kennedy, President; and Terrence J. Anderson, Secretary, of SCC Telecommunications, Inc., a corporation organized and existing under the laws of the State of New York (the "Corporation"), do hereby certify as follows:

FIRST: The name of the Corporation is SCC Telecommunications, Inc. The name under which the Corporation was formed is Blair Joy Development Corporation.

SECOND: The Certificate of Incorporation of the Corporation (the "Certificate") was originally filed in the Office of the Secretary of State of the State of New York on June 5, 1991.

THIRD: The amendment of the Certificate effected by this certificate is as follows: to change the name of the Corporation.

FOURTH: To accomplish the foregoing amendment, Article FIRST of the Certificate relating to the name of the Corporation is hereby amended to read as follows:

*"The name of the Corporation is Community Networks, Inc."*

FIFTH: This Certificate of Amendment was duly adopted in accordance with the provisions of Sections 615, 704 and 905 of the Business Corporation Law of the State of New York, to wit, by a unanimous written consent of the directors of the Corporation, followed by the written consent of the sole shareholder of the Corporation.



Duquette &amp; Tipton LLP

212 687-2835

04/20/98 10:35 NO. 032 03/03

IN WITNESS WHEREOF, the undersigned have hereunto signed their names  
and do hereby and affirm under penalty of perjury, that the statements contained herein are  
true and correct and that this Certificate of Amendment is the act and deed of the Corporation  
as of this 16<sup>th</sup> day of April, 1998.

By: 

Vann M. Kennedy, President

By: 

Lawrence J. Anderson, Secretary

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CT-07

991006000688

**CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
COMMUNITY NETWORKS, INC.**

Under Section 805 of the New York Business Corporation Law

The undersigned, Vern M. Kennedy, President, and Terrence J. Anderson, Secretary, of COMMUNITY NETWORKS, INC., a New York corporation (the "Corporation"), hereby certify as follows:

1. The name of the Corporation is Community Networks, Inc. (the name) under which the Corporation was formed is Briar Joy Development Corporation.
2. The Certificate of Incorporation of the Corporation (the "Certificate of Incorporation") was originally filed in the Office of the Secretary of State of the State of New York on June 5, 1991.

3. The Certificate of Incorporation is hereby amended to change the name of the Corporation to Broadview Networks, Inc. by deleting Article FIRST in its entirety and replacing it with the following:

**FIRST:** The name of the Corporation is Broadview Networks, Inc.

4. The foregoing amendment was duly authorized pursuant to Sections 615, 702 and 803(a) of the New York Business Corporation Law, to wit: by a unanimous written consent of the directors of the corporation, followed by the written consent of the sole shareholder of the Corporation.

IN WITNESS WHEREOF, the undersigned have hereunto signed their names  
and do verify and affirm, under penalty of perjury, that the statements contained herein are true  
and correct and that this Certificate of Amendment is the act and deed of the Corporation as of  
this 5th day of October, 1999.

By: /s/ Vern M. Kennedy  
Name: Vern M. Kennedy  
Title: President

By: /s/ Terrence J. Anderson  
Name: Terrence J. Anderson  
Title: Secretary

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**CERTIFICATE OF INCORPORATION**  
**OF**  
**BROADVIEW NETWORKS, INC.**

Under Section 905 of the Business Corporation Law

The undersigned, JOHN M. KENNEDY, President and Laurence A. KENNEDY, Secretary of BROADVIEW NETWORKS, INC., a New York corporation (the "Corporation"), hereby certify as follows:

**FIRST:** The name of the corporation (the "Corporation") is BROADVIEW NETWORKS, INC. The name under which the Corporation will conduct its business is Broadview Networks Corporation.

**SECOND:** The Certificate of Incorporation of the Corporation (the "Certificate of Incorporation") was originally filed in the Office of the Secretary of State of the State of New York on April 2, 1991.

**THIRD:** Paragraph 2 of the Certificate of Incorporation, relating to purposes for which the Corporation is organized, is changed to read as follows:

The purposes of the Corporation to be carried on in any lawful activity for which corporations may be organized under the laws of the incorporated State of New York. The Corporation will not be formed in any line of activity requiring the consent of any governmental agency, department, board, agency, or other body without such consent or approval first being obtained.

**FOURTH:** Paragraph 1 of the Certificate of Incorporation is hereby amended to decrease the number of shares of common stock from 2,500,000 to 1,000,000, of which 1,139,356 shares are presently issued and outstanding and 660,644 shares are reserved to 1,000,000 shares of common stock at a par value of \$0.01 of which 1,000 are issued. There will be no unissued shares of common stock.

The rate of change of the issued is 1:1,139,356.

**FIFTH:** Paragraph 4 of the Certificate of Incorporation relating to the principal office of the corporation is hereby changed to read as follows:

The office of the Corporation is to be located in New York County, State of New York.

**SIXTH:** Paragraph 5 of the Certificate of Incorporation relating to designation of an agent for the service of process is hereby changed to read as follows:

The Secretary of State is designated as the agent of the Corporation upon whom process against it may be served. The post office address to which the secretary of state shall send a copy of any process against it served upon him is Broadview Networks Holdings, Inc. 45-25 Court Square, Ste 302, Long Island City, New York, 11101, Attn: President.

1

SEVENTH: Paragraph 6 of the Certificate of Incorporation relating to director liability is hereby changed to read as follows:

No director shall be personally liable to the Corporation or its shareholders or its creditors as a director of any person or entity (including the Corporation) for damages for any breach of any duty, except that the protection shall be limited to the liability of any director if a plaintiff or other claimant demonstrates to the satisfaction of the court that (a) such director's conduct was in bad faith or involved conscious disregard of a known violation of law, (b) such director personally gained or lost a financial benefit or was personally damaged in which such director was not legally entitled, or (c) this stockholder's suit violated provisions of the Protection of the Investor or any other provision of securities law or any other law of the State of New York or the United States. If the BCL is amended, changed or modified so as to provide corporate action limited to the liability of directors or to limit the liability of directors to the Corporation, its shareholders or third parties, then the liability of a director of the Corporation shall be amended or limited to the fullest extent permitted by the BCL, as so amended, changed or modified. Any repeal, modification or termination of the provisions of this paragraph by the shareholders of the Corporation shall not adversely affect any director's protection of a director of the Corporation relating to claims arising in such claim which occurs with respect to the time of such repeal, amendment or modification.

EIGHTH: Paragraph 7 relating to removal of directors is hereby deleted and replaced with:

No Corporation is to have personal liability.

NINTH: The following amendments were authorized by a 75 percent vote of the Board of Directors of the Corporation, followed by the vote of the sole holder of its capital stock.

IN WITNESS WHEREOF, the undersigned has hereunto signed their names and do verify and affirm, under penalty of perjury, that the statements contained herein are true and correct and that the Certificate of Amendment is the act and deed of the Corporation as of the 2nd day of May, 2000.

By: Walter M. Kennedy  
Walter M. Kennedy  
Title: President

By: Terence J. Anderson  
Terence J. Anderson  
Title: Secretary

000307000246

CERTIFICATE OF AMENDMENT AND RESTATEMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
DORREN NETWORKS, INC.  
UNDER SECTION 905  
OF THE BUSINESS CORPORATION LAW

May 3, 2007

Mayer Brown & Ples  
1675 Broadway  
New York, NY 10019

100

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED MAY 3 2007

TAXES: NOT BY  
BY: NOT BY

1st. St. Lawrence

St. Lawrence

ny

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000307000246

TOTAL \$ 0.00

***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 24, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

State of New York  
Department of State } ss:

I hereby certify, that the Certificate of Incorporation of BROADVIEW NETWORKS, INC. was filed on 06/05/1991, under the name of BRIAR JOY DEVELOPMENT CORPORATION, with perpetual duration, and that a diligent examination has been made of the Corporate index for documents filed with this Department for a certificate, order, or record of a dissolution, and upon such examination, no such certificate, order or record has been found, and that so far as indicated by the records of this Department, such corporation is an existing corporation.

A Certificate of Amendment BRIAR JOY DEVELOPMENT CORPORATION, changing its name to SCC TELECOMMUNICATIONS, INC., was filed 10/02/1997.

A Certificate of Amendment SCC TELECOMMUNICATIONS, INC., changing its name to COMMUNITY NETWORKS, INC., was filed 04/21/1998.

A Certificate of Amendment COMMUNITY NETWORKS, INC., changing its name to BROADVIEW NETWORKS, INC., was filed 10/06/1999.

\*\*\*

WITNESS my hand and the official seal  
of the Department of State at the City of  
Albany, this 23rd day of August two  
thousand and seven.

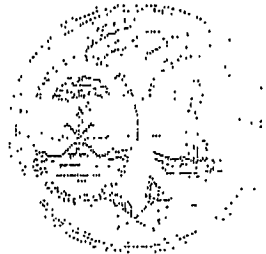


Special Deputy Secretary of State

200708240310 72



# *The State of South Carolina*



*Office of Secretary of State Mark Hammond*

## **Certificate of Existence**

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

BROADVIEW NETWORKS, INC.,  
a corporation duly organized under the laws of the State of South Carolina on September 6th, 2007, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed all reports due this office, paid all fees, taxes and penalties owed to the Secretary of State, that the Secretary of State has not mailed notice to the Corporation that it is subject to being dissolved by administrative action pursuant to section 33-14-210 of the South Carolina Code, and that the corporation has not filed articles of dissolution as of the date hereof.

Given under my Hand and the Great  
Seal of the State of South Carolina this  
12th day of September, 2007.

A handwritten signature in cursive script that reads "Mark Hammond".  
Mark Hammond, Secretary of State

## **Exhibit B**

### **Reactivation of Illinois Telecommunications Authority**

Applicant has not had an application for authority to provide telecommunications services denied by any jurisdiction. However, as a result of the inadvertent failure to remain timely with respect to all filing obligations under the Illinois Business Corporation Act of 1983, Broadview's foreign corporation authority in Illinois was revoked, leading to the cancellation of its authority to provide telecommunications services in the State of Illinois. Because of an internal restructuring of a number of Applicant's office locations in New York, New Jersey and Pennsylvania during the Spring of 2002, Applicant unfortunately did not become aware of this circumstance until after the revocation of its grant of authority. Applicant is now current in the filing of annual and other reports, has regained its authority to conduct business as a foreign corporation in the State of Illinois and has reinstated its authority to provide Illinois intrastate, interexchange toll telecommunications services.

Following the above event, Applicant instituted safeguards to ensure its future compliance with all Secretary of State and public utility commission reporting obligations. Specifically, Applicant has established internal procedures, including the hiring and training of individuals whose primary job responsibility relates directly to monitoring the status of Applicant's operating authority, responding promptly to any and all state Commission inquiries and/or data requests, and timely submitting all reports and information as required to maintain Applicant's operating authority in all jurisdictions on a going-forward basis.

## **Exhibit C**

### **Officers, Directors and Legal Counsel**

**Officers of Broadview Networks, Inc.**

Michael K. Robinson	Chief Executive Officer and President
Brian Crotty	Chief Operating Officer
Corey Rinker	Chief Financial Officer and Assistant Secretary
Charles C. Hunter	Executive Vice President, Secretary and General Counsel
Terence J. Anderson	Executive Vice President – Corporate Development

**Directors of Broadview Networks, Inc.**

Steven F. Tunney, Sr.  
Samuel G. Rubenstein  
John S. Patton, Jr.  
David C. Ruberg  
Robert Manning  
Peter J. Barris  
B. Hagen Saville  
Raul Martynek  
Richard W. Roedel  
Michael K. Robinson

**Legal Counsel**

John J. Pringle, Jr.  
Ellis, Lawhorne & Sims, P.A.  
P. O. Box 2285  
Columbia, SC 29202  
Telephone: (803) 343-1270  
Facsimile: (803) 799-8479

## **Exhibit D**

### **Financial Information**

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

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**FORM 10-Q**

Mark One

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**For The Quarterly Period Ended June 30, 2009**

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**For the Transition Period from \_\_\_\_\_ to \_\_\_\_\_**

**Commission File Number 333-142946**

**Broadview Networks Holdings, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**11-3310798**

(IRS Employer Identification Number)

**800 Westchester Avenue,  
Suite N501 Rye Brook, NY 10573**  
(Address of principal executive offices)

**10573**  
(Zip code)

**(914) 922-7000**

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☒ Smaller reporting company ☐  
(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date,

<u>Class</u>	<u>Outstanding at August 7, 2009</u>
Class A Common Stock, \$.01 par value per share	9,342,880
Class B Common Stock, \$.01 par value per share	360,050

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Table of Contents**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This quarterly report contains both historical and “forward-looking statements.” All statements other than statements of historical fact included in this report that address activities, events or developments that we expect, believe or anticipate will or may occur in the future are forward-looking statements including, in particular, the statements about our plans, objectives, strategies and prospects regarding, among other things, our financial condition, results of operations and business. We have identified some of these forward-looking statements with words like “believe,” “may,” “will,” “should,” “expect,” “intend,” “plan,” “predict,” “anticipate,” “estimate” or “continue” and other words and terms of similar meaning. These forward-looking statements may be contained throughout this report, including but not limited to statements under the caption “Management’s Discussion and Analysis of Financial Condition and Results of Operations.” These forward-looking statements are based on current expectations about future events affecting us and are subject to uncertainties and factors relating to our operations and business environment, all of which are difficult to predict and many of which are beyond our control and could cause our actual results to differ materially from those matters expressed or implied by forward-looking statements. Many factors mentioned in our discussion in this report will be important in determining future results. Although we believe that the expectations reflected in these forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Forward-looking statements (including oral representations) are only predications or statements of current plans, which we review continuously. They can be affected by inaccurate assumptions we might make or by known or unknown risks and uncertainties, including, among other things, risks associated with:

- servicing our substantial indebtedness;
- our history of operating losses;
- the elimination or relaxation of certain regulatory rights and protections;
- billing and other disputes with vendors;
- failure to maintain interconnection and service agreements with incumbent local exchange and other carriers;
- the loss of customers in an adverse economic environment;
- regulatory uncertainties in the communications industry;
- system disruptions or the failure of our information systems to perform as expected;
- the failure to anticipate and keep up with technological changes;
- inability to provide services and systems at competitive prices;
- difficulties associated with collecting payment from incumbent local exchange carriers, interexchange carriers and wholesale customers;
- the highly competitive nature of the communications market in which we operate including competition from incumbents, cable operators and other new market entrants, and declining prices for communications services;
- continued industry consolidation;
- restrictions in connection with our indenture governing the notes and credit agreement governing the credit facility;
- government regulation;
- increased regulation of Internet-protocol-based service providers;
- vendor bills related to past periods;
- the ability to maintain certain real estate leases and agreements;

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- interruptions in the business operations of third party service providers;
- limits on our ability to seek indemnification for losses from individuals and entities from whom we have acquired assets and operations;
- disruption and instability in the financial markets;
- solvency and liquidity of the administrative agent and primary creditor under our revolving credit facility;
- the financial difficulties by others in our industry;
- the failure to retain and attract management and key personnel;
- the failure to manage and expand operations effectively;
- the failure to successfully engage in future acquisitions;
- misappropriation of our intellectual property and proprietary rights;
- the possibility of incurring liability for information disseminated through our network;
- service network disruptions due to software or hardware bugs of the network equipment; and
- fraudulent usage of our network and services.

Because our actual results, performance or achievements could differ materially from those expressed in, or implied by, these forward-looking statements, we cannot give any assurance that any of the events anticipated by these forward-looking statements will occur or, if any of them do, what impact they will have on our business, results of operations and financial condition. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this report. We do not undertake any obligation to update these forward-looking statements to reflect new information, future events or otherwise, except as may be required under federal securities laws.

Table of Contents**PART I — FINANCIAL INFORMATION****Item 1. Financial Statements**

**Broadview Networks Holdings, Inc.**  
**Condensed Consolidated Balance Sheets**  
(in thousands, except share amounts)

	<u>December 31, 2008</u>	<u>June 30, 2009</u> (Unaudited)
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 24,070	\$ 22,343
Investment securities	23,533	23,540
Accounts receivable, less allowance for doubtful accounts of \$11,934 and \$12,434	53,486	47,342
Other current assets	12,614	12,740
Total current assets	113,703	105,965
Property and equipment, net	85,248	82,475
Goodwill	98,111	98,238
Intangible assets, net of accumulated amortization of \$150,556 and \$159,921	45,220	35,855
Other assets	16,746	16,289
Total assets	<u>\$ 359,028</u>	<u>\$ 338,822</u>
<b>LIABILITIES AND STOCKHOLDERS' DEFICIENCY</b>		
Current liabilities:		
Accounts payable	\$ 17,044	\$ 24,604
Accrued expenses and other current liabilities	42,699	24,730
Taxes payable	10,680	13,500
Deferred revenues	11,967	10,964
Current portion of capital lease obligations and equipment notes	4,142	4,158
Total current liabilities	86,532	77,956
Long-term debt	327,424	325,980
Deferred rent payable	2,400	2,267
Capital lease obligations and equipment notes, net of current portion	5,212	3,406
Deferred income taxes payable	2,071	2,555
Other	655	689
Total liabilities	424,294	412,853
Stockholders' deficiency:		
Common stock A — \$.01 par value; authorized 80,000,000, issued and outstanding 9,342,880 shares	107	107
Common stock B — \$.01 par value; authorized 10,000,000, issued and outstanding 360,050 shares	4	4
Series A Preferred stock — \$.01 par value; authorized 89,526 shares, designated, issued and outstanding 87,254 shares entitled in liquidation to \$139,428 and \$147,919	1	1
Series A-1 Preferred stock — \$.01 par value; authorized 105,000 shares, designated, issued and outstanding 100,702 shares, entitled in liquidation to \$160,917 and \$170,717	1	1
Series B Preferred stock — \$.01 par value; authorized 93,180 shares, designated, issued and outstanding 91,202 shares entitled in liquidation to \$145,737 and \$154,612	1	1
Series B-1 Preferred stock — \$.01 par value; authorized 86,000 shares, designated, issued and outstanding 64,986 shares entitled in liquidation to \$103,845 and \$110,169	1	1
Series C Preferred stock — \$.01 par value; authorized 52,332 shares, designated, issued and outstanding 14,402 shares entitled in liquidation to \$15,577 and \$16,979	—	—
Additional paid-in capital	140,563	140,679
Accumulated deficit	(205,966)	(214,826)
Accumulated other comprehensive income	22	1
Total stockholders' deficiency	(65,266)	(74,031)
Total liabilities and stockholders' deficiency	<u>\$ 359,028</u>	<u>\$ 338,822</u>

*See notes to unaudited condensed consolidated financial statements.*



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**Broadview Networks Holdings, Inc.**  
**Unaudited Condensed Consolidated Statements of Operations**  
(in thousands, except share amounts)

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2008</u>	<u>2009</u>	<u>2008</u>	<u>2009</u>
Revenues	\$ 128,313	\$ 116,818	\$ 251,856	\$ 239,526
Operating expenses:				
Cost of revenues (exclusive of depreciation and amortization)	65,427	57,477	131,448	119,128
Selling, general and administrative (includes share-based compensation of \$63, \$59, \$179 and \$116)	43,935	39,907	85,675	81,836
Software development	275	490	822	931
Depreciation and amortization	17,480	12,245	36,696	25,803
Total operating expenses	<u>127,117</u>	<u>110,119</u>	<u>254,641</u>	<u>227,698</u>
Income (loss) from operations	1,196	6,699	(2,785)	11,828
Interest expense	(9,927)	(10,124)	(19,455)	(20,101)
Interest income	160	12	431	96
Other income (expense)	<u>(8)</u>	<u>16</u>	<u>(8)</u>	<u>16</u>
Loss before provision for income taxes	(8,579)	(3,397)	(21,817)	(8,161)
Provision for income taxes	<u>(451)</u>	<u>(358)</u>	<u>(795)</u>	<u>(699)</u>
Net loss	(9,030)	(3,755)	(22,612)	(8,860)
Dividends on preferred stock	<u>(15,730)</u>	<u>(17,704)</u>	<u>(31,001)</u>	<u>(34,892)</u>
Loss available to common shareholders	<u>\$ (24,760)</u>	<u>\$ (21,459)</u>	<u>\$ (53,613)</u>	<u>\$ (43,752)</u>
Loss available per common share — basic and diluted	<u>\$ (2.56)</u>	<u>\$ (2.21)</u>	<u>\$ (5.54)</u>	<u>\$ (4.52)</u>
Weighted average common shares outstanding — basic and diluted	<u>9,676,996</u>	<u>9,688,771</u>	<u>9,672,338</u>	<u>9,684,139</u>

*See notes to unaudited condensed consolidated financial statements.*



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**Broadview Networks Holdings, Inc.**  
**Unaudited Condensed Consolidated Statements of Cash Flows**  
(in thousands)

	<u>Six Months Ended June 30,</u>	
	<u>2008</u>	<u>2009</u>
<b>Cash flows from operating activities</b>		
Net loss	\$ (22,612)	\$ (8,860)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation	15,531	16,404
Amortization of deferred financing costs	1,326	1,313
Amortization of intangible assets	21,131	9,365
Amortization of bond premium	(396)	(444)
Provision for doubtful accounts	3,321	3,916
Share-based compensation	179	116
Deferred income taxes	457	484
Other	35	41
Changes in operating assets and liabilities:		
Accounts receivable	(2,552)	2,228
Other current assets	(601)	(126)
Other assets	(1,579)	(856)
Accounts payable	(121)	7,560
Accrued expenses and other current liabilities	(2,239)	(17,969)
Taxes payable	(1,440)	2,820
Deferred revenues	1,477	(1,003)
Deferred rent payable	(307)	(133)
Net cash provided by operating activities	11,610	14,856
<b>Cash flows from investing activities</b>		
Purchases of property and equipment	(22,396)	(13,631)
Purchases of investment securities	—	(60,574)
Sales of investment securities	—	60,539
Other	(83)	(127)
Net cash used in investing activities	(22,479)	(13,793)
<b>Cash flows from financing activities</b>		
Repayments on revolving credit facility	—	(1,000)
Proceeds from capital lease financing and equipment notes	1,166	215
Payments on capital lease obligations and equipment notes	(1,725)	(2,005)
Other	(63)	—
Net cash used in financing activities	(622)	(2,790)
Net decrease in cash and cash equivalents	(11,491)	(1,727)
Cash and cash equivalents at beginning of period	41,998	24,070
Cash and cash equivalents at end of period	<u>\$ 30,507</u>	<u>\$ 22,343</u>

*See notes to unaudited condensed consolidated financial statements.*

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**Broadview Networks Holdings, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements**  
**(in thousands, except share information)**

**1. Organization and Description of Business*****Basis of Presentation***

The accompanying unaudited condensed consolidated financial statements have been prepared based upon Securities and Exchange Commission ("SEC") rules that permit reduced disclosure for interim periods. These financial statements reflect all adjustments necessary for a fair presentation of the results of operations and financial condition for the interim periods shown, including normal recurring accruals and other items. The results for interim periods are not necessarily indicative of results for the full year. For a more complete discussion of significant accounting policies and certain other information, the Company's interim unaudited financial statements should be read in conjunction with its audited financial statements as of and for the year ended December 31, 2008 included in the Company's Form 10-K. The condensed consolidated interim financial statements include both the Company's accounts and the accounts of its wholly-owned subsidiaries. All significant intercompany transactions have been eliminated in consolidation. The Company has evaluated the impact of subsequent events through August 7, 2009, which is the date the condensed consolidated financial statements were issued and filed with the SEC.

The preparation of the condensed consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reported amount of revenues and expenses during the reporting period. Management periodically reviews such estimates and assumptions as circumstances dictate. Actual results could differ from those estimates.

The Company is an integrated communications company whose primary interests consist of wholly-owned subsidiaries Broadview Networks, Inc. ("BNI"), Bridgecom Holdings, Inc. ("BH"), Corecomm-ATX, Inc. ("ATX") and Eureka Broadband Corporation ("Eureka", "InfoHighway" or "IH"). The Company also provides phone systems and other customer service offerings through its subsidiary, Bridgecom Solutions Group, Inc. ("BSG"). The Company was founded in 1996 to take advantage of the deregulation of the U.S. telecommunications market following the Telecommunications Act of 1996. The Company has one reportable segment providing domestic wireline telecommunications services consisting of local and long distance voice services, Internet, and data services to commercial and residential customers in the northeast United States.

**2. Investment Securities**

Investment securities represent the Company's investment in short-term U.S. Treasury notes. The Company's primary objectives for purchasing these investment securities are liquidity and safety of principal. The Company considers these investment securities to be available-for-sale. Accordingly, these investments are recorded at their fair value of \$23,540 as of June 30, 2009. The fair value of these investment securities are based on publicly quoted market prices, which are Level 1 inputs. All of the Company's investment securities mature in less than one year. The cost of these investment securities is \$23,539. During the six months ended June 30, 2009, the Company purchased \$60,574 and sold \$60,539 of U.S. Treasury notes. During the six months ended June 30, 2009, the Company realized a gain of \$30 upon the sale of its investment securities, which is included in interest income. All unrealized and realized gains are determined by specific identification.

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**Broadview Networks Holdings, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**  
**(in thousands, except share information)**

**3. Comprehensive Loss**

Comprehensive loss represents the change in net assets of a business enterprise during a period from non-ownership sources. The Company's other comprehensive income is comprised exclusively of unrealized gains on the Company's investments in U.S. Treasury notes. The comprehensive loss for the three and six months ended June 30, 2008 and 2009 is as follows:

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2008</u>	<u>2009</u>	<u>2008</u>	<u>2009</u>
Net loss	(9,030)	(3,755)	(22,612)	(8,860)
Unrealized gains on investment securities	—	1	—	1
Reclassification adjustments for realized gains included in net income	—	—	—	(22)
Comprehensive loss	<u>\$ (9,030)</u>	<u>\$ (3,754)</u>	<u>\$ (22,612)</u>	<u>\$ (8,881)</u>

**4. Recent Accounting Pronouncements**

In April 2009, the Financial Accounting Standards Board ("FASB") issued FSP FAS 107-1 and APB 28-1, *Interim Disclosures about Fair Value of Financial Instruments*, which amends FASB Statement No. 107, *Disclosures about Fair Value of Financial Instruments* ("SFAS 107"), to require an entity to provide interim disclosures about the fair value of all financial instruments within the scope of SFAS 107 and to include disclosures related to the methods and significant assumptions used in estimating those instruments. This FSP is effective for interim and annual periods ending after June 15, 2009. The Company has included additional disclosures in Notes 2 and 5, as a result of adopting this FSP.

In May 2009, the FASB issued SFAS 165, *Subsequent Events* ("SFAS 165"). SFAS 165 establishes general standards of accounting for disclosures of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. Although there is new terminology, the standard is based on the same principles as those that currently exist in the auditing standards. The standards, which include a new required disclosure of the date through which an entity has evaluated subsequent events, is effective for interim or annual periods ending after June 15, 2009. The adoption of this standard has not had a significant impact on the Company's financial position or results of operations. The Company has included additional disclosures in Note 1 as a result of adopting this standard.

On June 3, 2009, the FASB voted to approve FASB Accounting Standards Codification ("ASC") as the source of authoritative accounting and reporting standards in the United States in addition to guidance issued by the SEC. FASB ASC is a restructuring of accounting and reporting standards designed to simplify user access to all authoritative U.S. Generally Accepted Accounting Principles ("GAAP") by providing the authoritative literature in a topically organized structure. FASB ASC will reduce the hierarchy established by SFAS No. 162, *The Hierarchy of Generally Accepted Accounting Principles*, to two levels, one that is authoritative and one that is not. FASB ASC is not intended to change U.S. GAAP or any requirements of the SEC. FASB ASC became authoritative upon its release on July 1, 2009 and is effective for interim and annual periods ending after September 15, 2009.

**5. InfoHighway Acquisition**

In connection with the acquisition of InfoHighway in 2007, the Company issued warrants to acquire 16,976 units, with each such unit comprised of 1 share of Series B-1 Preferred Stock and 25 shares of Class A Common Stock, which are generally exercisable for a period of up to five years, with the exercise price of each warrant unit determined based on the cash flow generated from a certain customer of the legacy InfoHighway entity during the two year period following closing of the acquisition. As certain cash flow parameters are met as calculated and agreed upon for the twelve months ended May 31, 2008 and the twelve months ended May 31, 2009, the exercise price on the warrants may decrease from \$883.58 per unit to an exercise price of \$0.01 per unit.

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**Broadview Networks Holdings, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**  
**(in thousands, except share information)**

**5. InfoHighway Acquisition (continued)**

As of August 7, 2009, the exercise price on the warrants have not been determined. Negotiations are occurring between the Company and the warrant holders as to how certain carrier disputes relating specifically to InfoHighway that were in existence at the acquisition date and arising subsequent to that date will be handled in the cash flow calculation. The Company will not adjust the value of the warrants until an exercise price has been determined. When the exercise price for the warrants are resolved, the Company will utilize a Black-Scholes model to determine the aggregate value of the warrants. If the Company determines that the value of the warrants has increased, the Company will record additional merger consideration and related goodwill at such point of determination. The Company has determined that once the exercise price is resolved, the warrants will be classified as equity.

**6. Fair Values of Financial Instruments**

In the normal course of business, the Company's financial position is subject to a variety of risks, such as the collectability of accounts receivable and the recoverability of the carrying values of its long-term assets. The Company's long-term obligations consists primarily of long-term debt with fixed interest rates. The Company is not exposed to markets risks from changes in foreign currency exchange rates or commodity prices.

The Company's financial instruments include cash and cash equivalents, investments in U.S. Treasury notes, trade accounts receivable, accounts payable, and long-term debt. The Company's available cash balances are invested on a short-term basis (generally overnight) and, accordingly, are not subject to significant risks associated with changes in interest rates. All of the Company's cash flows are derived from operations within the United States and are not subject to market risk associated with changes in foreign exchange rates. The carrying amounts of the Company's cash and cash equivalents, trade accounts receivable and accounts payable reported in the consolidated balance sheet as of December 31, 2008 and June 30, 2009 are deemed to approximate fair value because of their liquidity and short-term nature. The carrying amounts of the Company's investments in U.S. Treasury notes are recorded at their fair value of \$23,540, which is based on the publicly quoted market price as June 30, 2009.

The fair value of the long-term debt outstanding under the Company's revolving credit facility approximates its carrying value of \$22.5 million due to its variable interest rate. The fair value of our 11 3/8% senior secured notes due 2012 at June 30, 2009 was approximately \$237 million, which was based on the publicly quoted closing price of the notes at that date. The publicly quoted closing price used to value the Company's senior secured notes is considered to be a Level 1 input.

**7. Commitments and Contingencies**

The Company has, in the ordinary course of its business, disputed certain billings from carriers and has recorded the estimated settlement amount of the disputed balances. The settlement estimate is based on various factors, including historical results of prior dispute settlements. The amount of such charges in dispute at June 30, 2009 was approximately \$22 million. The Company believes that the ultimate settlement of these disputes will be at amounts less than the amount disputed and has accrued the estimated settlement in accounts payable and accrued expenses and other current liabilities at June 30, 2009. It is possible that actual settlement of such disputes may differ from these estimates and the Company may settle at amounts greater than the estimates.

The Company has entered into commercial agreements with vendors under which it purchases certain services that it had previously leased under the unbundled network platform provisions of the Telecommunications Act of 1996 as well as special access services. For the six months ended June 30, 2009, the Company met the minimum purchase obligations. The agreements, which expire in 2010 and 2011, require certain minimum purchase obligations and contain fixed but escalating pricing over their term.

The Company is involved in claims and legal actions arising in the ordinary course of business. Management is of the opinion that the ultimate outcome of these matters will not have a material adverse impact on the Company's condensed consolidated financial position, results of operations, or cash flows. For more information, see our Form 10-K for the year ended December 31, 2008.

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**Broadview Networks Holdings, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**  
**(in thousands, except share information)**

**8. Long-term Debt Guarantees**

The Company's senior secured notes are fully, unconditionally and irrevocably guaranteed on a senior secured basis, jointly and severally, by each of the Company's existing and future domestic restricted subsidiaries. The notes and the guarantees rank senior in right of payment to all existing and future subordinated indebtedness of the Company and its subsidiary guarantors, as applicable, and equal in right of payment with all existing and future senior indebtedness of the Company and of such subsidiaries.

The notes and the guarantees are secured by a lien on substantially all of the Company's assets, provided, however, that pursuant to the terms of an intercreditor agreement, the security interest in those assets consisting of receivables, inventory, deposit accounts, securities accounts and certain other assets that secure the notes and the guarantees are contractually subordinated to a lien thereon that secures the Company's revolving credit facility with an aggregate principal amount of \$25,000 and certain other permitted indebtedness.

**9. Income Taxes**

At June 30, 2009, the Company had net operating loss ("NOL") carryforwards available totaling approximately \$141.6 million, which expire in various years through 2029. The utilization of NOL carryovers, resulting from previous mergers, is subject to restrictions pursuant to Section 382 of the Internal Revenue Code. As such, it was determined that certain NOLs recorded by the Company as deferred tax assets were limited. The Company has provided a full valuation allowance against the net deferred tax asset as of June 30, 2009 because management does not believe it is more likely than not that this asset will be realized. If the Company achieves profitability, the net deferred tax assets may be available to offset future income tax liabilities.

**10. Earnings Per Share**

The following is a reconciliation of the numerators and denominators of the basic and diluted net loss per share computations for the three and six months ended June 30, 2008 and 2009:

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2008</u>	<u>2009</u>	<u>2008</u>	<u>2009</u>
Loss available to common shareholders (Numerator):				
Net loss	\$ (9,030)	\$ (3,755)	\$ (22,612)	\$ (8,860)
Dividends on preferred stock	<u>(15,730)</u>	<u>(17,704)</u>	<u>(31,001)</u>	<u>(34,892)</u>
Loss available to common shareholders	<u>\$ (24,760)</u>	<u>\$ (21,459)</u>	<u>\$ (53,613)</u>	<u>\$ (43,752)</u>
Shares (Denominator):				
Weighted average common shares outstanding:				
Class A common stock	9,342,880	9,342,880	9,342,880	9,342,880
Class B common stock	<u>334,116</u>	<u>345,891</u>	<u>329,458</u>	<u>341,259</u>
Total weighted average common shares outstanding — basic and diluted	<u>9,676,996</u>	<u>9,688,771</u>	<u>9,672,338</u>	<u>9,684,139</u>
Loss available per common share — basic and diluted	<u>\$ (2.56)</u>	<u>\$ (2.21)</u>	<u>\$ (5.54)</u>	<u>\$ (4.52)</u>

As of June 30, 2009, the Company had outstanding options, warrants, restricted stock units and preferred stock, which were convertible into or exercisable for common shares of 13,502,141 that were not included in the calculation of diluted loss per common share because the effect would have been anti-dilutive.

Dividends accumulate on the Company's Series A, A-1, B and B-1 Preferred Stock. The loss available to common shareholders must be computed by adding any dividends accumulated for the period to net losses. Dividends accumulated but undeclared for the three months ended June 30, 2008 and 2009 were \$15.7 million and \$17.7 million, respectively. Dividends accumulated but undeclared for the six months ended June 30, 2008 and 2009 were \$31.0 million and \$34.9 million, respectively.



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**Broadview Networks Holdings, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**  
**(in thousands, except share information)**

**11. Subsequent Events**

On July 31, 2009, the Company entered into an agreement with Natural Convergence, Inc. ("NCI") to acquire the intellectual property and source code for the enabling technology behind the Company's hosted internet protocol phone service. This technology was previously being used under a license agreement with NCI.

**Table of Contents****Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the Unaudited Condensed Consolidated Financial Statements and Notes to the Unaudited Condensed Consolidated Financial Statements included elsewhere in this quarterly report and our Form 10-K for the year ended December 31, 2008 filed with the Securities and Exchange Commission (the "SEC"). Certain information contained in the discussion and analysis set forth below and elsewhere in this quarterly report, including information with respect to our plans and strategies for our business and related financing, includes forward-looking statements that involve risk and uncertainties. In evaluating such statements, prospective investors should specifically consider the various factors identified in this quarterly report that could cause results to differ materially from those expressed in such forward-looking statements, including matters set forth in our Form 10-K for the year ended December 31, 2008 filed with the SEC.*

**Overview**

We are a leading competitive communications provider, in terms of revenue, offering voice and data communications and managed network solutions to small and medium sized business customers in 20 markets across 10 states throughout the Northeast and Mid-Atlantic United States, including major metropolitan markets such as New York, Philadelphia, Baltimore, Washington, D.C. and Boston. To meet the demands of communications-intensive business customers, we offer dedicated local and long distance voice, high-speed data and integrated services, as well as value-added products and services such as managed services. Our network architecture pairs the strength of a traditional infrastructure with an IP platform, built into our core and extending to the edge, to support dynamic growth of Voice Over Internet Protocol ("VoIP"), Multiprotocol Label Switching ("MPLS") and other next generation technologies. In addition, our network topology incorporates metro Ethernet access in key markets, enabling us to provide T-1 equivalent and high-speed Ethernet access services via unbundled network element loops to customers served from selected major metropolitan collocations, significantly increasing our margins while also enhancing capacity and speed of certain service offerings.

We recorded operating losses of \$17.2 million, \$32.1 million, \$3.0 million for the years ended December 31, 2006, 2007 and 2008, respectively. For the six months ended June 30, 2009, we recorded operating income of \$11.8 million. For the years ended December 31, 2006, 2007 and 2008 and for the six months ended June 30, 2009, we recorded net losses of \$41.5 million, \$65.5 million, \$42.9 million and \$8.9 million, respectively. We expect to continue to have losses for the foreseeable future, the synergies we have effectuated through our acquisitions offered some areas of increasing operating efficiencies leading to potentially more profitable net results.

Our business is subject to several macro trends, some of which negatively affect our operating performance. Among these negative trends are lower usage per customer, which translates into less usage based revenue and lower unit pricing for certain services. In addition, we continue to face other industry wide trends including rapid technology changes and overall increases in competition from existing large competitors such as Verizon and established cable operators, other competitive local exchange carriers and new entrants such as VoIP, wireless and other service providers. These factors are mitigated by several positive trends. These include a more stable customer base, increasing revenue per customer due to the trend of customers to buy more products from us as we deploy new technology and expand our offerings, a focus on larger customers than those in our existing base and an overall increase in demand for data, managed and enhanced services.

As of June 30, 2009, we have approximately 300 sales, sales management and sales support employees, including approximately 200 quota-bearing sales representatives, who target small and medium sized business or enterprise customers located within the footprint of our switching centers and approximately 260 collocations. We focus our sales efforts on communications intensive business customers who purchase multiple products that can be cost-effectively delivered on our network. These customers generally purchase high margin services in multi-year contracts and result in high retention rates. We believe that a lack of focus on the small and medium sized business segment from the Regional Bell Operating Companies has created an increased demand for alternatives in the small and medium sized business communications market. Consequently, we view this market as a sustainable growth opportunity and have focused our strategies on providing small and medium sized businesses with a competitive communications solution.

We focus our business strategy on providing services based on our T-1 based products, which we believe offer greater value to customers, increase customer retention and provide revenue growth opportunities for us. Historically, the Company's revenue was dominated by off-net, voice revenue from smaller customers. We have transitioned a large percentage of our revenue base to T-1 based products. As a result our combined revenue from T-1 based products and managed services has grown by approximately 13% from 2007 to 2008. Revenue from the sale of T-1 based products and managed services grew by approximately 2.4% from the first six months of 2008 to the first six months of 2009, and represents approximately 44.1% of our total revenue and approximately 50.2% of our retail revenue stream, with typical incremental gross profit margins in excess of 60%.





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Our facilities-based network encompasses approximately 3,000 route miles of metro and long-haul fiber, approximately 260 collocations and approximately 500 lit buildings. Our network has the ability to deliver traditional services, such as POTS and T-1 lines, as well as DSL, or Digital Subscriber Line, and next generation services, such as dynamic VoIP integrated T-1s, Ethernet in the first mile, hosted VoIP solutions, and MPLS Virtual Private Networks. We provide services to our customers primarily through our network of owned telecommunications switches, data routers and related equipment and owned and leased communications lines and transport facilities using a variety of access methods, including unbundled network element loops, special access circuits and digital T-1 transmission lines for our on-net customers. We have deployed an IP-based platform that facilitates the development of next generation services and the migration of our traffic and customer base to a more cost-effective and efficient IP-based infrastructure, which enhances the performance of our network. As of June 30, 2009, approximately three-fourths of our total lines were provisioned on-net.

We measure our operational performance using a variety of indicators including: (i) revenue; (ii) the percentage of our revenue that comes from customers that we serve on-net for target products; (iii) gross margin; (iv) operating expenses as a percentage of revenue; (v) EBITDA margin; (vi) free cash flow; (vii) revenue and profit per customer; and (viii) customer and revenue retention. We also monitor key operating and customer service metrics to improve customer service, maintain the quality of our network and reduce costs.

**Results of Operations**

The following table sets forth, for the periods indicated, certain financial data as a percentage of total revenues.

	<b>Three Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2008</b>	<b>2009</b>	<b>2008</b>	<b>2009</b>
Revenues:				
Voice and data services	86.9%	86.8%	87.0%	86.8%
Wholesale	3.9%	4.2%	3.6%	4.1%
Access	5.5%	5.5%	5.8%	5.4%
Total network services	96.3%	96.5%	96.4%	96.3%
Other	3.7%	3.5%	3.6%	3.7%
Total revenues	100.0%	100.0%	100.0%	100.0%
Operating expenses:				
Network services	48.9%	47.4%	50.3%	47.9%
Other cost of revenues	2.1%	1.8%	1.9%	1.8%
Selling, general and administrative	34.2%	34.2%	34.0%	34.2%
Software development	0.2%	0.4%	0.3%	0.4%
Depreciation and amortization	13.6%	10.5%	14.6%	10.8%
Total operating expenses	99.0%	94.3%	101.1%	95.1%
Income (loss) from operations	1.0%	5.7%	(1.1%)	4.9%
Interest expense	(7.7%)	(8.6%)	(7.7%)	(8.3%)
Interest income	0.1%	0.0%	0.2%	0.0%
Other income (expense)	0.0%	0.0%	0.0%	0.0%
Loss before provision for income taxes	(6.6%)	(2.9%)	(8.6%)	(3.4%)
Provision for income taxes	(0.4%)	(0.3%)	(0.3%)	(0.3%)
Net loss	(7.0%)	(3.2%)	(8.9%)	(3.7%)

**Table of Contents****Key Components of Results of Operations*****Revenues***

Our revenues, as detailed in the table above, consist primarily of network services revenues, which consists primarily of voice and data managed and hosted services, wholesale services and access services. Voice and data services consist of local dial tone, long distance and data services, as well as managed and hosted services. Wholesale services consist of voice and data services, data collocation services and transport services. Access services, includes carrier access and reciprocal compensation revenue, which consists primarily of usage charges that we bill to other carriers to originate and terminate their calls from and to our customers. Network services revenues represents a predominantly recurring revenue stream linked to our retail and wholesale customers.

We generate approximately 87% of our revenues from retail end customer voice and data products and services. Revenue from end customer data includes T-1/T-3, integrated T-1 data and other managed services trending to an increasing percentage of our overall revenue even as voice revenues, predominately POTS and long distance services, remain the core of our revenue base. Data cabling, service installation and wiring and phone systems sales and installation also form a small but growing portion of our overall business. We continue to focus on data, managed and hosted services as growth opportunities as we expect the industry to trend toward lower usage components of legacy products such as long distance and local usage. This lower usage is primarily driven by trends toward customers using more online and wireless communications.

***Cost of Revenues (exclusive of depreciation and amortization)***

Our network services cost of revenues consist primarily of the cost of operating our network facilities. Determining our cost of revenues requires significant estimates. The network components for our facilities-based business include the cost of:

- leasing local loops and digital T-1 lines which connect our customers to our network;
- leasing high capacity digital lines that connect our switching equipment to our collocations;
- leasing high capacity digital lines that interconnect our network with the incumbent local exchange carriers;
- leasing space, power and terminal connections in the incumbent local exchange carrier central offices for collocating our equipment;
- signaling system network connectivity; and
- Internet transit and peering, which is the cost of delivering Internet traffic from our customers to the public Internet.

The costs to obtain local loops, digital T-1 lines and high capacity digital interoffice transport facilities from the incumbent local exchange carriers vary by carrier and by state and are regulated under federal and state laws. We do not anticipate any significant changes in Verizon local loop, digital T-1 line or high capacity digital interoffice transport facility rates in the near future. Except for our lit buildings, in virtually all areas, we obtain local loops, T-1 lines and interoffice transport capacity from the incumbent local exchange carriers. We obtain interoffice facilities from carriers other than the incumbent local exchange carriers, where possible, in order to lower costs and improve network redundancy; however, in most cases, the incumbent local exchange carriers are our only source for local loops and T-1 lines.

Our off-net network services cost of revenues consists of amounts we pay to Verizon and AT&T pursuant to our commercial agreements with them. Rates for such services are prescribed in the commercial agreements and available for the term of the agreements. Rates were subject to a surcharge that increased by a predetermined amount on each of the first, second and third anniversaries of the agreement term and is now fixed for the duration of the agreement term. The commercial agreements require certain minimum purchase obligations, which we have met in all of the years we were under the commercial agreements.

Our network services cost of revenues also includes the fees we pay for long distance, data and other services. We have entered into long-term wholesale purchasing agreements for these services. Some of the agreements contain significant termination penalties and/or minimum usage volume commitments. In the event we fail to meet minimum volume commitments, we may be obligated to pay underutilization charges. We do not anticipate having to pay any underutilization charges in the foreseeable future.



Table of Contents***Gross Profit (exclusive of depreciation and amortization)***

Gross profit (exclusive of depreciation and amortization), as presented in this Management's Discussion and Analysis of Financial Condition and Results of Operations, represents income (loss) from operations, before depreciation and amortization, software development expenses and selling, general and administrative expenses. Gross profit (exclusive of depreciation and amortization), is a non-GAAP financial measure used by our management, together with financial measures prepared in accordance with GAAP such as revenue and cost of revenue, to assess our historical and prospective operating performance.

The following table sets forth, for the periods indicated, a reconciliation of gross profit (exclusive of depreciation and amortization), to income (loss) from operations as income (loss) from operations is calculated in accordance with GAAP:

	<b>Three Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2008</b>	<b>2009</b>	<b>2008</b>	<b>2009</b>
Income (loss) from operations	\$ 1,196	\$ 6,699	\$ (2,785)	\$ 11,828
Depreciation and amortization	17,480	12,245	36,696	25,803
Software development	275	490	822	931
Selling, general and administrative	43,935	39,907	85,675	81,836
Gross profit (exclusive of depreciation and amortization)	<u>\$ 62,886</u>	<u>\$ 59,341</u>	<u>\$ 120,408</u>	<u>\$ 120,398</u>
Gross profit, as a percentage of revenue	<u>49.0%</u>	<u>50.8%</u>	<u>47.8%</u>	<u>50.3%</u>

Gross profit is a measure of the general efficiency of our network costs in comparison to our revenue. As we expense the current cost of our network against current period revenue, we use this measure as a tool to monitor our progress with regards to network optimization and other operating metrics.

Our management also uses gross profit to evaluate performance relative to that of our competitors. This financial measure permits a comparative assessment of operating performance, relative to our performance based on our GAAP results, while isolating the effects of certain items that vary from period to period without any correlation to core operating performance or that vary widely among similar companies. Our management believes that gross profit is a particularly useful comparative measure within our industry.

We provide information relating to our gross profit so that analysts, investors and other interested persons have the same data that management uses to assess our operating performance, which permits them to obtain a better understanding of our operating performance and to evaluate the efficacy of the methodology and information used by our management to evaluate and measure such performance on a standalone and a comparative basis.

Our gross profit may not be directly comparable to similarly titled measures reported by other companies due to differences in accounting policies and items excluded or included in the adjustments, which limits its usefulness as a comparative measure. In addition, gross profit has other limitations as an analytical financial measure. These limitations include the following:

- gross profit does not reflect our capital expenditures, future requirements for capital expenditures or contractual commitments to purchase capital equipment;
- gross profit does not reflect the interest expense, or the cash requirements necessary to service interest or principal payments, associated with our indebtedness;
- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will likely have to be replaced in the future, and gross profit does not reflect any cash requirements for such replacements; and
- gross profit does not reflect the SG&A expenses necessary to run our ongoing operations.

Our management compensates for these limitations by relying primarily on our GAAP results to evaluate its operating performance and by considering independently the economic effects of the foregoing items that are or are not reflected in gross profit. As a result of these limitations, gross profit should not be considered as an alternative to income (loss) from operations, as calculated in accordance with GAAP, as a measure of operating performance.

Table of Contents***Selling, General and Administrative***

SG&A is comprised primarily of salaries and related expenses, non-cash compensation, occupancy costs, sales and marketing expenses, commission expenses, bad debt expense, billing expenses, professional services expenses and insurance expenses.

Determining our allowance for doubtful accounts receivable requires significant estimates. In determining the proper level for the allowance we consider factors such as historical collections experience, the aging of the accounts receivable portfolio and economic conditions. We perform a credit review process on each new customer that involves reviewing the customer's current service provider bill and payment history, matching customers with national databases for delinquent customers and, in some cases, requesting credit reviews through Dun & Bradstreet Corporation.

***Depreciation and Amortization***

Our depreciation and amortization expense currently includes depreciation for network-related voice and data equipment, fiber, back-office systems, third-party conversion costs, internally developed software, furniture, fixtures, leasehold improvements, office equipment and computers and amortization of intangibles associated with mergers, acquisitions and software development costs.

**Three Months Ended June 30, 2008 Compared to Three Months Ended June 30, 2009**

Set forth below is a discussion and analysis of our results of operations for the three months ended June 30, 2008 and 2009.

The following table provides a comparison of components of our gross profit (exclusive of depreciation and amortization) for the three months ended June 30, 2008 and 2009:

	Three Months Ended June 30,				
	2008		2009		
	<u>Amount</u>	<u>% of Total Revenues</u>	<u>Amount</u>	<u>% of Total Revenues</u>	<u>% Change</u>
Revenues:					
Network services	\$ 123,564	96.3%	\$ 112,780	96.5%	(8.7%)
Other	4,749	3.7%	4,038	3.5%	(15.0%)
Total revenues	<u>128,313</u>	<u>100.0%</u>	<u>116,818</u>	<u>100.0%</u>	<u>(9.0%)</u>
Cost of revenues:					
Network services	62,768	48.9%	55,352	47.4%	(11.8%)
Other	2,659	2.1%	2,125	1.8%	(20.1%)
Total cost of revenues	<u>65,427</u>	<u>51.0%</u>	<u>57,477</u>	<u>49.2%</u>	<u>(12.2%)</u>
Gross profit:					
Network services	60,796	47.4%	57,428	49.1%	(5.5%)
Other	2,090	1.6%	1,913	1.7%	(8.5%)
Total gross profit	<u>\$ 62,886</u>	<u>49.0%</u>	<u>\$ 59,341</u>	<u>50.8%</u>	<u>(5.6%)</u>

Table of Contents**Revenues**

Revenues for the three months ended June 30, 2008 and 2009 were as follows:

	Three Months Ended June 30,				
	2008		2009		
	<u>Amount</u>	<u>% of Total Revenues</u>	<u>Amount</u>	<u>% of Total Revenues</u>	<u>% Change</u>
Revenues:					
Voice and data services	\$ 111,417	86.9%	\$ 101,526	86.8%	(8.9%)
Wholesale	5,035	3.9%	4,882	4.2%	(3.0%)
Access	<u>7,112</u>	<u>5.5%</u>	<u>6,372</u>	<u>5.5%</u>	<u>(10.4%)</u>
Total network services	123,564	96.3%	112,780	96.5%	(8.7%)
Other	<u>4,749</u>	<u>3.7%</u>	<u>4,038</u>	<u>3.5%</u>	<u>(15.0%)</u>
Total revenues	\$ 128,313	100.0%	\$ 116,818	100.0%	(9.0%)

Overall our revenues have declined 9.0% between 2008 and 2009. Revenues from voice services have decreased \$10.4 million or 12.4% between 2008 and 2009. This decrease is due to increased line churn, lower usage revenue per customer, lower prices per unit for certain services and a lower number of lines and customers. Additionally, the voice service revenue decrease experienced during the current quarter has moderately accelerated over decreases experienced in previous quarters, which we attribute to the current economic conditions. This decrease has been slightly offset by an increased demand for our data, hosted and managed services. Our revenues from data services have increased by \$1 million or 3.8% between 2008 and 2009. Our carrier access revenues have decreased primarily due to decreasing revenue from voice services, which reduces our revenues from access originations and terminations and reciprocal compensation. Our wholesale revenue from our T-1 and data products as well as from voice terminations showed only modest declines. Our other revenues, which include data cabling, service installation and wiring and phone systems sales and installation, have declined due to current economic conditions.

**Cost of Revenues (exclusive of depreciation and amortization)**

Cost of revenues were \$57.5 million for the three months ended June 30, 2009, a decrease of 12.2% from \$65.4 million for the same period in 2008 as we eliminated inefficiencies in our operating platforms. Our costs consist primarily of those incurred from other providers and those incurred from the cost of our network. Costs where we purchased services or products from third party providers comprised \$51.7 million, or 79.0% of our total cost of revenues for the three months ended June 30, 2008 and \$45.2 million, or 78.7% in the three months ended June 30, 2009. The most significant components of our costs purchased from third party providers consist of costs related to our Verizon wholesale advantage contract (formerly UNE-P), UNE-L and T-1 costs, which totaled \$13.6 million, \$6.4 million and \$13.6 million, respectively, for the three months ended June 30, 2008. Combined these costs decreased by 7.4% between 2008 and 2009. These costs totaled \$11.3 million, \$6.3 million and \$13.5 million, respectively, for the three months ended June 30, 2009. We have experienced a decrease in costs where we purchased services or products from third parties as a percentage of total cost of revenues primarily due to our effective migration of lines to lower cost platforms.

**Gross Profit (exclusive of depreciation and amortization)**

Gross profit was \$59.3 million for the three months ended June 30, 2009, a decrease of 5.6% from \$62.9 million for the same period in 2008. As a percentage of revenues gross profit increased to 50.8% in 2009 from 49.0% in 2008. The increase in gross profit as a percentage of revenues is primarily due to lower costs resulting from provisioning more lines from resale and unbundled network platform to on-net. We are focusing sales initiatives towards increasing the amount of data and integrated T-1 lines sold, as we believe that these initiatives will produce incrementally higher margins than those currently reported from POTS services. In addition, as we continue to drive additional cost saving initiatives, including provisioning customers to our on-net facilities, identifying additional inaccuracies in billing from existing carriers, renegotiating existing agreements and executing new agreements with additional interexchange carriers, we believe that our gross profit will improve.

Table of Contents***Selling, General and Administrative***

SG&A expenses were \$39.9 million, 34.2% of revenues, for the three months ended June 30, 2009, a decrease of 9.1% from \$43.9 million, 34.2% of revenues, for the same period in 2008. This decrease is primarily due to decreased employee costs of \$1.6 million, decreased professional fees of \$0.5 million and decreased commission expenses of \$1.6 million between 2008 and 2009. We continue to look for additional cost savings in various categories throughout the organization.

***Depreciation and Amortization***

Depreciation and amortization costs were \$12.2 million for the three months ended June 30, 2009, a decrease of 30.3% from \$17.5 million for the same period in 2008. This decrease in depreciation and amortization expense was due to fully amortizing some of our acquired customer base intangible assets during 2008. Amortization expense included in our results of operations for customer base intangible assets for the three months ended June 30, 2009 was \$3.7 million, a decrease of \$5.6 million from \$9.3 million included in our results of operations during the same period in 2008.

***Interest***

Interest expense was \$10.1 million for the three months ended June 30, 2009, an increase of 2.0% from \$9.9 million for the same period in 2008. The increase was primarily due to having a higher average outstanding debt balance for the three months ended June 30, 2009 compared to 2008. The higher average debt balance is due to the outstanding borrowings on our revolving credit facility. Our effective annual interest rates for the three months ended June 30, 2008 and 2009 is as follows:

	<b>Three Months Ended June 30,</b>	
	<b>2008</b>	<b>2009</b>
Interest expense	\$ 9,927	\$ 10,124
Weighted average debt outstanding	\$ 309,048	\$ 331,054
Effective annual interest rate	12.85%	12.23%

***Net Loss***

Net loss was \$3.8 million for the three months ended June 30, 2009, a decrease of 57.8% from the net loss of \$9.0 million for the same period in 2008. The decrease in net loss is a result of the factors discussed above.



Table of Contents**Six Months Ended June 30, 2008 Compared to Six Months Ended June 30, 2009**

Set forth below is a discussion and analysis of our results of operations for the six months ended June 30, 2008 and 2009.

The following table provides a comparison of components of our gross profit (exclusive of depreciation and amortization) for the six months ended June 30, 2008 and 2009:

	Six Months Ended June 30,				
	2008		2009		
	Amount	% of Total Revenues	Amount	% of Total Revenues	% Change
Revenues:					
Network services	\$ 242,887	96.4%	\$ 230,601	96.3%	(5.1%)
Other	8,969	3.6%	8,925	3.7%	(0.5%)
Total revenues	251,856	100.0%	239,526	100.0%	(4.9%)
Cost of revenues:					
Network services	126,564	50.3%	114,720	47.9%	(9.4%)
Other	4,884	1.9%	4,408	1.8%	(9.7%)
Total cost of revenues	131,448	52.2%	119,128	49.7%	(9.4%)
Gross profit:					
Network services	116,323	46.1%	115,881	48.4%	(0.4%)
Other	4,085	1.7%	4,517	1.9%	10.6%
Total gross profit	\$ 120,408	47.8%	\$ 120,398	50.3%	0.0%

**Revenues**

Revenues for the six months ended June 30, 2008 and 2009 were as follows:

	Six Months Ended June 30,				
	2008		2009		
	<u>Amount</u>	<u>% of Total Revenues</u>	<u>Amount</u>	<u>% of Total Revenues</u>	<u>% Change</u>
Revenues:					
Voice and data services	\$ 219,376	87.0%	\$ 207,706	86.8%	(5.3%)
Wholesale	9,017	3.6%	9,882	4.1%	9.6%
Access	14,494	5.8%	13,013	5.4%	(10.2%)
Total network services	242,887	96.4%	230,601	96.3%	(5.1%)
Other	8,969	3.6%	8,925	3.7%	(0.5%)
Total revenues	\$ 251,856	100.0%	\$ 239,526	100.0%	(4.9%)

**Table of Contents**

Overall, our revenues have declined 4.9% between 2008 and 2009. Revenues from voice services have decreased \$14.3 million or 8.6% between 2008 and 2009. This decrease is due to increased line churn, lower usage revenue per customer, lower prices per unit for certain services and a lower number of lines and customers. Additionally, the voice service revenue decrease experienced during the current quarter has moderately accelerated over decreases experienced in previous quarters, which we attribute to the current economic conditions. This decrease has been partially offset by an increased demand for our data, hosted and managed services. Our revenues from data services have increased by \$3.7 million or 7.3% between 2008 and 2009. The decrease in our voice services have also been partially offset by higher revenue per customer due to the trend toward multiple products per customer and a focus on larger customers. Our carrier access revenues have decreased primarily due to decreasing revenue from voice services, which reduces our revenues from access originations and terminations and reciprocal compensation. Our wholesale revenue increased primarily as a result of organic growth of our T-1 and data products as well as from voice terminations. Our other revenues, which includes data cabling, service installation and wiring and phone systems sales and installation, remains virtually unchanged from the prior year.

***Cost of Revenues (exclusive of depreciation and amortization)***

Cost of revenues was \$119.1 million for the six months ended June 30, 2009, a decrease of 9.4% from \$131.4 million for the same period in 2008 as we eliminated inefficiencies in our operating platforms. Our costs consist primarily of those incurred from other providers and those incurred from the cost of our network. Costs where we purchased services or products from third-party providers comprised \$103.8 million, or 79.0% of our total cost of revenues for the six months ended June 30, 2008 and \$94.0 million, or 78.9% in the six months ended June 30, 2009. The most significant components of our costs purchased from third-party providers consist of costs related to our Verizon wholesale advantage contract (formerly UNE-P), UNE-L and T-1 costs, which totaled \$26.8 million, \$12.9 million and \$27.6 million, respectively, for the six months ended June 30, 2008. Combined, these costs decreased by 5.3% between 2008 and 2009. These costs totaled \$23.7 million, \$12.9 million and \$27.1 million, respectively, for the six months ended June 30, 2009. We have experienced a decrease in costs where we purchased services or products from third parties as a percentage of total cost of revenues primarily due to our effective migration of lines to lower cost platforms.

***Gross Profit (exclusive of depreciation and amortization)***

Gross profit was \$120.4 million for the six months ended June 30, 2009, unchanged from \$120.4 million for the same period in 2008. As a percentage of revenues gross profit increased to 50.3% in 2009 from 47.8% in 2008. The increase in gross profit as a percentage of revenues is primarily due to lower costs resulting from provisioning more lines from resale and unbundled network platform to on-net. We are focusing sales initiatives towards increasing the amount of data and integrated T-1 lines sold, as we believe that these initiatives will produce incrementally higher margins than those currently reported from POTS services. In addition, as we continue to drive additional cost saving initiatives, including provisioning customers to our on-net facilities, identifying additional inaccuracies in billing from existing carriers, renegotiating existing agreements and executing new agreements with additional interexchange carriers, we believe that our gross profit will improve.

***Selling, General and Administrative***

SG&A expenses were \$81.8 million, 34.2% of revenues, for the six months ended June 30, 2009, a decrease of 4.6% from \$85.7 million, 34.0% of revenues, for the same period in 2008. This decrease is primarily due to decreased employee costs of \$1.4 million, decreased professional fees of \$0.5 million, decreased commission expenses of \$2.3 million and decreased use of outside consultants of \$0.5 million between 2008 and 2009. These decreases were partially offset by increased bad debt expenses of \$0.6 million from increased accounts receivable write-offs during the six months ended June 30, 2009. We continue to look for additional cost savings in various categories throughout the organization.

***Depreciation and Amortization***

Depreciation and amortization costs were \$25.8 million for the six months ended June 30, 2009, a decrease of 29.7% from \$36.7 million for the same period in 2008. This decrease in depreciation and amortization expense was due to fully amortizing some of our acquired customer base intangible assets during 2008. Amortization expense included in our results of operations for customer base intangible assets for the six months ended June 30, 2009 was \$8.4 million, a decrease of \$11.5 million from \$19.9 million included in our results of operations during the same period in 2008.

**Table of Contents*****Interest***

Interest expense was \$20.1 million for the six months ended June 30, 2009, an increase of 3.1% from \$19.5 million for the same period in 2008. The increase was primarily a result of having a higher average outstanding debt balance for the six months ended June 30, 2009 compared to 2008. The higher average debt balance is due to the outstanding borrowings on our revolving credit facility. Our effective annual interest rates for the six months ended June 30, 2008 and 2009 are as follows:

	<b>Six Months Ended June 30,</b>	
	<b>2008</b>	<b>2009</b>
Interest expense	\$ 19,455	\$ 20,101
Weighted average debt outstanding	\$ 309,115	\$ 331,747
Effective annual interest rate	12.59%	12.12%

***Net Loss***

Net loss was \$8.9 million for the six months ended June 30, 2009, a decrease of 60.6% from the net loss of \$22.6 million for the same period in 2008. The decrease in net loss is a result of the factors discussed above.

**Off-Balance Sheet Arrangements**

We have no special purpose or limited purpose entities that provide off-balance sheet financing, liquidity, or market or credit risk support, and we do not currently engage in hedging, research and development services, or other relationships that expose us to any liabilities that are not reflected on the face of our financial statements.

**Liquidity and Capital Resources**

Our principal sources of liquidity are cash from operations, our cash, cash equivalents and investments and access to undrawn portions of our \$25.0 million credit facility and our capital lease line. Our short-term liquidity requirements consist of interest on our notes, capital expenditures and working capital. Our long-term liquidity requirements consist of the principal amount of our notes and our outstanding borrowings under our revolving credit facility. Based on our current level of operations and anticipated growth, we believe that our existing cash, cash equivalents and available borrowings under our credit facility will be sufficient to fund our operations and to service our notes for at least the next 12 months. Further, a significant majority of our planned capital expenditures are "success-based" expenditures, meaning that it is directly linked to new revenue, and if they are made, they will be made only when it is determined that they will directly lead to more profitable revenue. As of June 30, 2009, we have \$7.0 million of capital lease obligations outstanding under our capital lease line. As of June 30, 2009, we had \$22.5 million of outstanding borrowings under our revolving credit facility, all of which we have invested in U.S. Treasury notes. Additionally, we have used our credit facility to collateralize \$1.3 million of outstanding letters of credit as of June 30, 2009. During July 2009, we withdrew an additional \$1.0 million from our credit facility. Our cash and cash equivalents are being held in several large financial institutions, although most of our balances exceed the Federal Deposit Insurance Corporation insurance limits.

As of June 30, 2009, we required approximately \$119.4 million in cash to service the interest due on our notes throughout the life of the notes. We may need to refinance all or a portion of our indebtedness, including the notes, at or before maturity. We cannot assure you that we will be able to refinance any of our indebtedness, including the notes and our credit facility, on commercially reasonable terms or at all. However, we continuously evaluate and consider all financing opportunities. Any future acquisitions or other significant unplanned costs or cash requirements may also require that we raise additional funds through the issuance of debt or equity.

For information regarding our revolving credit facility and senior secured notes, see our Form 10-K for the year ended December 31, 2008.

**Table of Contents*****Disputes***

During December 2008, we finalized a settlement with Verizon, which extinguished virtually all outstanding disputes between the parties as of March 31, 2008. The settlement included a comprehensive mutual release of any liability or potential liability between the parties effective as of that date. We nonetheless continue to be involved in a variety of disputes with multiple carrier vendors relating to billings of approximately \$22.0 million as of June 30, 2009. We believe we have accrued an amount appropriate to settle all remaining disputed charges. However, it is possible that the actual settlement of any remaining disputes may differ from our reserves and that we may settle at amounts greater than the estimates. We have sufficient cash on hand to fund any differences between our expected and actual settlement amounts.

**Six Months Ended June 30, 2008 Compared to Six Months Ended June 30, 2009*****Cash Flows from Operating Activities***

Cash provided by operating activities was \$11.6 million for the six months ended June 30, 2008, compared to cash provided by operating activities of \$14.9 million for 2009. During the six months ended June 30, 2009 and 2008, we paid \$17.1 million in interest expense on our notes. The change in cash provided by operations was due to the improvement in our income from operations partially offset by payments made in connection with our settlement with Verizon.

***Cash Flows from Investing Activities***

Cash used in investing activities was \$22.5 million for the six months ended June 30, 2008, compared to cash used in investing activities of \$13.8 million for 2009. The change in cash flow from investing activities was primarily due to decreased capital expenditures during the six months ended June 30, 2009.

***Cash Flows from Financing Activities***

Cash flows used in financing activities was \$0.6 million for the six months ended June 30, 2008, compared to cash used in financing activities of \$2.8 million for 2009. The change in cash flows from financing activities was primarily due to a reduced amount of borrowing from our capital lease line, offset by a \$1.0 million repayment on our credit facility in the six months ended June 30, 2009 as compared to the same period in 2008.

**New Accounting Standards**

See Note 4 to this Item 1 for accounting standards that were issued since the filing of our Form 10-K for the year ended December 31, 2008. These new accounting standards are not expected to have a material impact on our financial position, results of operations or liquidity.

**Application of Critical Accounting Policies and Estimates**

The preparation of the condensed consolidated financial statements in accordance with GAAP requires us to make judgments, estimates and assumptions regarding uncertainties that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities and the reported amounts of revenues and expenses. We use historical experience and all available information to make these judgments and estimates and actual results could differ from those estimates and assumptions that are used to prepare our financial statements at any given time. Despite these inherent limitations, management believes that Management's Discussion and Analysis of Financial Condition and Results of Operations and the accompanying condensed consolidated financial statements and footnotes provide a meaningful and fair perspective of our financial condition and operating results for the current period. For more information, see our Form 10-K for the year ended December 31, 2008.

**Other Matters**

At June 30, 2009, we had NOL carryforwards for federal and state income tax purposes. The amount of such available NOL carryforwards which may be available to offset future taxable income was approximately \$141.6 million. The Company has provided a full valuation allowance against the net deferred tax assets as of June 30, 2009 because management does not believe it is more likely than not that this asset will be realized.

**Table of Contents****Item 3. Quantitative and Qualitative Disclosures About Market Risk**

In the normal course of business, our financial position is subject to a variety of risks, such as the collectability of our accounts receivable and the recoverability of the carrying values of our long-term assets. Our long-term obligations consist primarily of long-term debt with fixed interest rates. We are not exposed to market risks from changes in foreign currency exchange rates or commodity prices. We do not hold any derivative financial instruments nor do we hold any securities for trading or speculative purposes.

We continually monitor the collectability of our accounts receivable and although our write-offs have increased during the six months ended June 30, 2009, we have not noted any significant changes in our collections as a result of the current economic and market conditions. We believe that our allowance for doubtful accounts is adequate as of June 30, 2009. Should the market conditions continue to worsen or should our customers' ability to pay decrease, we may be required to increase our allowance for doubtful accounts, which would result in a charge to our SG&A expenses.

Our available cash balances are invested on a short-term basis (generally overnight) and, accordingly, are not subject to significant risks associated with changes in interest rates. Substantially all of our cash flows are derived from our operations within the United States and we are not subject to market risk associated with changes in foreign exchange rates.

Our investment securities are classified as available for sale, and consequently, are recorded on the balance sheet at fair value with unrealized gains and losses reflected in stockholders' deficiency. Our investment securities are comprised solely of short-term U.S. Treasury notes with original maturity dates of three or six months. These investment securities, like all fixed income instruments, are subject to interest rate risk and will fall in value if market interest rates increase.

The fair value of our 11 3/8% senior secured notes due 2012 was approximately \$237 million at June 30, 2009. Our senior secured notes, like all fixed rate securities are subject to interest rate risk and will fall in value if market interest rates increase.

The fair value of the long-term debt outstanding under our Revolving Credit Facility approximates its carrying value of \$22.5 million due to its variable interest rate. A change in interest rates of 100 basis points would change our interest expense by \$225 on an annual basis.

**Item 4T. Controls and Procedures***Evaluation of Disclosure Controls and Procedures*

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports filed under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. In evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by SEC Rule 15d-15(b), we carried out an evaluation, under the supervision and with the participation of our management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the operation of our disclosure controls and procedures as of the end of the period covered by this report. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of June 30, 2009. For information regarding the Company's internal control over financial reporting, see our Form 10-K for the year ended December 31, 2008.

*Changes in Internal Control Over Financial Reporting*

There have been no changes in the Company's internal control over financial reporting during the quarter ended June 30, 2009 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

**Table of Contents****PART II — OTHER INFORMATION****Item 1. Legal Proceedings**

We are currently a party to several legal actions. AT&T Communications of New York, Inc. and Teleport Communications Group, Inc. commenced an action against us in the U.S. District Court for the Southern District of New York in March, 2008. Plaintiffs seek monetary relief, including recovery of amounts billed for switched access service. This matter has been referred to the New York Public Service Commission.

We are also a party to certain legal actions and regulatory investigations and enforcement proceedings arising in the ordinary course of business. We do not believe that the ultimate outcome of any of the foregoing actions will result in any liability that would have a material adverse effect on our financial condition, results of operations or cash flows. We are involved in certain billing and contractual disputes with our vendors.

For more information, see the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our Form 10-K for the year ended December 31, 2008.

**Item 1A. Risk Factors**

The CIT Group/Business Credit, Inc. ("CIT"), one of our lenders under our credit facility has recently faced significant challenges, which threaten its financial viability. The amount of our credit facility may be negatively impacted if CIT is unable to satisfy its obligations under the credit facility, or if any of our other lenders under the credit facility suffer similar liquidity issues. In such an event, we may not be able to draw on any of the amounts available under our credit facility, or a substantial portion thereof. Our management is closely monitoring the situation. However, it is unknown at the present time what impact, if any, CIT's bankruptcy filing would have on us.

Other than the risk factor noted above, there have been no material changes in our risk factors from those set forth in our Form 10-K for the year ended December 31, 2008, which should be read in conjunction with this report.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

None.

**Item 3. Defaults Upon Senior Securities**

None.

**Item 4. Submission of Matters to a Vote of Security Holders**

None.

**Item 5. Other Information**

None.

**Table of Contents****Item 6. Exhibits**

The following exhibits are filed herewith:

<b><u>Exhibit No.</u></b>	<b><u>Description</u></b>
31.1	Certification of the Company's Chief Executive Officer pursuant to Exchange Act Rules 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of the Company's Chief Financial Officer pursuant to Exchange Act Rules 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of the Company's Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of the Company's Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

**Table of Contents****SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on August 7, 2009.

**BROADVIEW NETWORKS HOLDINGS, INC.**

By: /s/ MICHAEL K. ROBINSON

Name: Michael K. Robinson

Title: Chief Executive Officer,  
President and Assistant Treasurer

By: /s/ COREY RINKER

Name: Corey Rinker

Title: Chief Financial Officer,  
Treasurer and Assistant Secretary



Table of Contents**EXHIBIT INDEX**

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## **Exhibit E**

### **Biographies of Key Personnel**

## **BROADVIEW NETWORKS, INC.**

### **TECHNICAL QUALIFICATIONS/MANAGEMENT EXPERIENCE**

The Company has assembled a highly skilled management team, which brings a wealth of experience and expertise to the Company's telecommunications services venture. Together, the Company's executives provide it with the depth and breadth of management, operational and technical capabilities necessary to facilitate its provision of high quality, affordable telecommunications services.

Brief summaries of the experience of key members of the Company's executive team are set forth below:

#### **MICHAEL K. ROBINSON** **President and Chief Executive Officer**

Mr. Robinson joined the Company as Chief Executive Officer in March, 2005. Prior to that time, Mr. Robinson had been with US LEC Corporation, a publicly traded competitive telecommunications provider, holding the position of Executive Vice President and Chief Financial Officer since July, 1998. In this role, Mr. Robinson was responsible for all financial operations for the company, including treasury, general accounting and internal control, investor relations, billing and information systems development, information technology, human resources and real estate. Prior to joining US LEC, Mr. Robinson spent 10 years in various management positions with the telecommunications division of Alcatel, including Vice President and Chief Financial Officer of Alcatel Data Networks and the worldwide financial operations of the Enterprise and Data Networking Division of Alcatel. Prior to these roles, Mr. Robinson was Chief Financial Officer of Alcatel Network Systems. Before joining Alcatel, Mr. Robinson held various management positions with Windward International and Siecor Corp. Mr. Robinson holds a Masters Degree in Business Administration from Wake Forest University.

#### **BRIAN P. CROTTY** **Chief Operating Officer**

Mr. Crotty has over 15 years of senior management experience in the telecommunications industry. In his role with Broadview, Mr. Crotty is responsible for all operational aspects of the Company including sales, marketing, provisioning, billing, network operations, repair, field services and customer service. Mr. Crotty formerly served as the Chief Operating Officer of BridgeCom International, Inc. Prior to joining BridgeCom, Mr. Crotty held a succession of positions with CoreComm Ltd., a publicly traded integrated communications provider with facilities throughout the Northeast and Midwest, most recently serving in the role of Director of Operations. Mr. Crotty joined CoreComm Ltd., through the acquisition of USN Communications Inc., where he held a succession of senior management roles in both sales and operations including Vice President of Operations. Prior to that time, Mr. Crotty was the co-founder and served as Executive Vice President of The Millenium Group, one of the first

competitive local exchange carriers in the state of Wisconsin. In addition, Mr. Crotty has also served in managerial positions with CEI Communications, which he founded, and AT&T Corp. Mr. Crotty obtained a degree in Business Administration from St. Norbert College.

**COREY RINKER**

**Chief Financial Officer, Treasurer and Assistant Secretary**

Mr. Rinker, a Certified Public Accountant and Attorney, joined the Company (originally with BridgeCom International, Inc.) as Chief Financial Officer in January 2001 following seven years of experience serving in similar positions with both privately held and publicly traded corporation including The Intellisource Group, a Safeguard Scientifics, Inc. partnership company. Mr. Rinker also possesses nearly a decade of cumulative experience with predecessors of the Big Four accounting firms of Deloitte & Touche LLP and Ernst & Young LLP, serving in senior managerial positions in the tax and consulting areas. Mr. Rinker has an Accounting Degree, with honors, from the University of Massachusetts at Amherst and a J.D. degree from Yeshiva University's Cardozo School of Law.

**CHARLES C. HUNTER**

**Executive Vice President, Secretary and General Counsel**

Mr. Hunter has served as Executive Vice President, Secretary and General Counsel of Broadview since 2003. Mr. Hunter responsible for corporate and legal affairs of the Company, including federal and state public policy advocacy. Mr. Hunter is a 30-year veteran of telecommunications law and policy who has represented competitive providers of communications services for well over a decade. Prior to joining Broadview, Mr. Hunter headed the Hunter Communications Law Group, P.C., a District of Columbia based boutique telecommunications law firm with a nationwide clientele. Mr. Hunter began his legal career as a trial attorney with the Federal Maritime Commission and afterwards was a partner specializing in telecommunications matters at the Chicago-based law firm of Gardner, Carton and Douglas and the District of Columbia based law firm of Herron, Burchette, Ruckert and Rothwell. Mr. Hunter received his J.D. from the Duke University School of Law and his undergraduate degree from the University of Michigan at Ann Arbor. Mr. Hunter is a member of the bars of New York, the District of Columbia, the U.S. Supreme Court and numerous Federal Appellate Courts.

**KENNETH A. SHULMAN**  
**Chief Technology Officer and Chief Information Officer**

Mr. Shulman joined Broadview in 1999 as Chief Technology Officer. In this role, he is responsible for the architecture, technology, standards and evolution plans for the Company's integrated communications networks and services. As Chief Information Officer, Mr. Shulman is also responsible for the Company's patented integrated provisioning, billing and CRM systems, software and IT infrastructure. Mr. Shulman has 30 years of leadership experience in communications technology. He previously served as Vice President of local network technology for AT&T, a position he assumed when AT&T acquired Teleport Communications Group ("TGC") in 1998. From 1987 to 1988, Mr. Shulman held officer positions with TGC, including Senior Vice President and Chief Technology Officer. Earlier, Mr. Shulman was Director of Systems Engineering for MCI International. Prior to that time, Mr. Shulman specialized in network planning with Bell Communications Research, Inc. ("BellCore") and Bell Laboratories. Mr. Shulman holds a B.S. in Electrical Engineering from the State University of New York at Stony Brook, an M.S. in Electrical Engineering from the University of Rochester, and an M.B.A. from The Wharton School of Business at the University of Pennsylvania. Mr. Shulman has served on many technical advisory boards and currently serves on advisory board of Baker Capital and Baypackets, Inc.

**TERENCE J. ANDERSON**  
**Executive Vice President – Corporate Development**

Mr. Anderson was the co-founder of Broadview Networks in 1996 and has served as Executive Vice President, Finance since the Company's inception. Mr. Anderson's current role includes corporate development, business planning and financial analysis. He has led efforts to raise start-up capital, offered financial direction and assisted in securing subsequent financing. Previously, as a Vice President in the Media and Telecommunications Finance and Telecommunications Finance Group of Chemical Banking Corp. from 1988 to 1995, Mr. Anderson was responsible for originating and executing transactions and financing for diverse customers, including several large cable operators. Mr. Anderson holds a Bachelor's Degree in Economics from Princeton University and an M.B.A. with honors from Columbia University.

**Exhibit F**

**Proposed Local Exchange  
Telecommunications Services Tariff**

**South Carolina**  
**LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES TARIFF**  
**OF**  
**Broadview Networks, Inc.**

**Regulatory Contact:**

**Charles C. Hunter, Executive Vice President & General Counsel**  
**Broadview Networks, Inc.**  
**800 Westchester Avenue, Suite N-501**  
**Rye Brook, NY 10573**  
**Telephone: (914) 922-7589**

This Tariff contains the descriptions, regulations and rates applicable to the provision of local exchange telecommunications services provided by Broadview Networks, Inc., with principal offices located at 800 Westchester Avenue, Suite N-501, Rye Brook, NY 10573, for services furnished within the State of South Carolina. This tariff is on file with the South Carolina Public Service Commission and the Office of the Regulatory Staff. Copies may be inspected, during normal business hours, at the Company's principal place of business.

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Issued:

Effective:

Issued by:

Charles C. Hunter  
Executive Vice President & General Counsel  
800 Westchester Avenue, Suite N-501  
Rye Brook, NY 10573

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Issued:

Effective:

Issued by:

Charles C. Hunter  
Executive Vice President & General Counsel  
800 Westchester Avenue, Suite N-501  
Rye Brook, NY 10573



## CHECK SHEET

Section	Page	Revision	Section	Page	Revision	Section	Page	Revision
Title	Title	Original*	Section 3	1	Original*	Section 7	12	Original*
Preface	1	Original*	Section 3	2	Original*	Section 7	13	Original*
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Section 2	30	Original*	Section 7	10	Original*			
Section 2	31	Original*	Section 7	10-1	Original*			

\*Denotes New or Revised Page.

Issued:

Effective:

Issued by:

Charles C. Hunter  
 Executive Vice President & General Counsel  
 800 Westchester Avenue, Suite N-501  
 Rye Brook, NY 10573

### EXPLANATION OF SYMBOLS

The following symbols shall be used in this Tariff for the purpose indicated below:

- (C) To signify changed regulation.
- (D) To signify discontinued rate or regulation.
- (I) To signify increased rate.
- (M) To signify a move in the location of text.
- (N) To signify new rate or regulation.
- (R) To signify reduced rate.
- (S) To signify reissued matter.
- (T) To signify a change in text but no change in rate or regulation.

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Issued:

Effective:

Issued by:

Charles C. Hunter  
Executive Vice President & General Counsel  
800 Westchester Avenue, Suite N-501  
Rye Brook, NY 10573

## APPLICATION OF TARIFF

This Tariff contains the regulations, rates and charges applicable to the provision of competitive local telecommunications services of Broadview Networks, Inc. ("Company"), for the use of Customers in transmitting messages within the State of South Carolina, subject to the jurisdiction of the South Carolina Public Service Commission ("Commission"). Services include, but are not limited to resold and facilities-based voice service within the State of South Carolina. Company's Services are furnished subject to the availability of facilities and subject to the terms and conditions of this Tariff.

The rates and regulations contained in this Tariff apply only to the services furnished by Company and do not apply, unless otherwise specified, to the lines, facilities, or service provided by a local exchange telephone company or other common carrier for use in accessing the services of Carrier.

This tariff is on file with the South Carolina Public Service and the Office of Regulatory Staff. In addition, this tariff is available for review at the main office of Broadview Networks, Inc., at 800 Westchester Avenue, Suite N-501, Rye Brook, NY 10573.

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Issued:

Effective:

Issued by:

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**TARIFF FORMAT**

A. Page Numbering – Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the Tariff. When a new page is added between pages already in effect, a decimal is added. For example, a new page added between pages 14 and 15 would be 14.1.

B. Page Revision Numbers – Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the South Carolina Public Service Commission and the Office of Regulatory Staff. For example, the 4th revised Page 14 cancels the 3rd revised Page 14. Because of various suspension periods, deferrals, etc., the most current page number on file with the South Carolina Public Service Commission and the Office of Regulatory Staff is not always the Tariff page in effect. Consult the Check Sheet for the page currently in effect.

C. Paragraph Numbering Sequence – There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

- 2.
- 2.1.
- 2.1.1.
- 2.1.1.A.
- 2.1.1.A.1.
- 2.1.1.A.1.(a).
- 2.1.1.A.1.(a).I.
- 2.1.1.A.1.(a).I.(i).
- 2.1.1.A.1.(a).I.(i).(1).

D. Check Sheets – When a Tariff filing is made with the South Carolina Public Service Commission and the Office of Regulatory Staff, an updated Check Sheet accompanies the Tariff filing. The Check Sheet lists the pages contained in the Tariff, with a cross reference to the current revision number. When new pages are added, the Check Sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc., remain the same, just revised revision levels on some pages). The Tariff user should refer to the latest Check Sheet to find out if a particular page is the most current on file with the South Carolina Public Service Commission and the Office of Regulatory Staff.

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**SECTION 1 – DEFINITIONS**

**Access Line** – An arrangement from a local exchange telephone company or other common carrier, using either dedicated or switched access, which connects a Customer's location to Carrier's location or switching center.

**Account** – A Company accounting category containing up to two (2) residential local exchange access lines billed to the same Customer at the same address. The second or non-primary local exchange access line will share any call allowance of the primary local exchange access line. The second or non-primary local exchange access line, therefore, will not be provisioned to include a separate call allowance structure. No features are provided with the second or non-primary local exchange access line.

**Account Codes** – Permits Centrex Stations and attendants to dial an account code number of up to eight digits. For use when placing calls over facilities arranged for Automatic Message Accounting (AMA) recording. The account or project number must be input prior to dialing the called number.

**Advance Payment** – Part or all of a payment required before the start of service.

**Authorization Code** – A numerical code, one or more of which may be assigned to a Customer, to enable Carrier to identify the origin of service of the Customer so it may rate and bill the call. All authorization codes shall be the sole property of Carrier and no Customer shall have any property or any other right or interest in the use of any particular authorization code. Automatic numbering identification (ANI) may be used as or in connection with the authorization code.

**Authorized User** – A person, firm or corporation authorized by the Customer to be an end-user of the service of the Customer.

**Automatic Numbering Identification (ANI)** – A type of signaling provided by a local telephone company which automatically identifies the local exchange line from which a call originates.

**Commission** – Refers to the South Carolina Public Service Commission, unless otherwise indicated.

**Common Carrier** – An authorized company or entity providing telecommunications services to the public.

**Company** – Broadview Networks, Inc., the issuer of this Tariff.

**Customer** – The person, firm or corporation that orders service and is responsible for payment of charges and compliance with the terms and conditions of this Tariff.

**Customer Premises** – A location designated by the Customer for the purposes of connecting to the Company's services.

**Customer Terminal Equipment** – Terminal equipment provided by the Customer.

**Deposit** – Refers to a cash or equivalent of cash security held as a guarantee for payment of the charges.

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**SECTION 1 – DEFINITIONS (CONT'D)**

**End Office** – The LEC switching system office or serving wire center where Customer station loops are terminated for purposes of interconnection to each other and/or to trunks.

**Equal Access** – A form of dialed access provided by local exchange companies whereby interexchange calls dialed by the Customer are automatically routed to the Company's network. Presubscribed Customers may also route interexchange calls to the Company's network by dialing an access code supplied by the Company.

**Exchange Telephone Company or Telephone Company** – Denotes any individual, partnership, association, joint-stock company, trust, or corporation authorized by the appropriate regulatory bodies to engage in providing public switched communication service throughout an exchange area, and between exchange areas within the LATA.

**ICB – Individual Case Basis.** All records for ICBs will be made available to the ORS upon request.

**ILEC – Incumbent Local Exchange Company** refers to the dominant, monopoly local telephone company in the area also served by the Company.

**IXC or Interexchange Carrier** – A long distance telecommunications service provider.

**Interruption** – The inability to complete calls due to equipment malfunctions or human errors. Interruption shall not include, and no allowance shall be given for service difficulties such as slow dial tone, circuits busy or other network and/or switching capability shortages. Nor shall Interruption include the failure of any service or facilities provided by a common carrier or other entity other than the Carrier. Any interruption allowance provided within this Tariff by Carrier shall not apply where service is interrupted by the negligence or willful act of the Customer, or where the Carrier, pursuant to the terms of this Tariff, terminates service because of non-payment of bills, unlawful or improper use of the Carrier's facilities or service, or any other reason covered by this Tariff or by applicable law.

**LATA** – A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designed as a LATA in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4, or its successor Tariff(s).

**Monthly Recurring Charges** – The monthly charges to the Customer for services, facilities and equipment, which continue for the agreed upon duration of the service.

**MOU – Minutes of Use.**

**NECA – National Exchange Carriers Association.**

**Non-Recurring Charge ("NRC")** – The initial charge, usually assessed on a one-time basis, to initiate and establish service.

**ORS** – The South Carolina Office of Regulatory Staff.

**PBX – Private Branch Exchange.**

**PIN – Personal Identification Number.** See Authorization Code.

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**SECTION 1 – DEFINITIONS (CONT'D)**

Point of Presence (“POP”) – Location where the Company maintains a facility for purposes of interconnecting to the Company's Network.

PSC – Refers to the South Carolina Public Service Commission.

Recurring Charges – Monthly charges to the Customer for services, and equipment, which continues for the agreed-upon duration of the service.

Service – Any means of service offered herein or any combination thereof.

Service Order – The written request for Company services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order Form by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this Tariff.

Serving Wire Center – A specified geographic point from which the vertical and horizontal coordinate is used in calculation of airline mileage.

Shared Inbound Calls – Refers to calls that are terminated via the Customer's Company-provided local exchange line.

Shared Outbound Calls – Refers to calls in Feature Group (FGD) exchanges whereby the Customer's local telephone lines are presubscribed by the Company to the Company's outbound service such that “1 + 10-digit number” calls are automatically routed to the Company's or an IXC's network. Calls to stations within the Customer's LATA may be placed by dialing “10XXX” or 101XXXX” with a “1+10-digit number.”

Broadview – Broadview Networks, Inc., issuer of this Tariff.

Station – The network control signaling unit and any other equipment provided at the Customer's premises which enables the Customer to establish communications connections and to effect communications through such connections.

Subscriber – The person, firm, partnership, corporation, or other entity who orders telecommunications service from Broadview Networks, Inc.. Service may be ordered by, or on behalf of, those who own, lease or otherwise manage the pay telephone, PBX, or other switch vehicle from which an End User places a call utilizing the services of the Company.

Switched Access Origination/Termination – Where access between the Customer and the interexchange carrier is provided on local exchange company Feature Group circuits and the connection to the Customer is a LEC-provided business or residential access line. The cost of switched Feature Group access is billed to the interexchange carrier.

Terminal Equipment – Any telecommunications equipment other than the transmission or receiving equipment installed at a Company location.

Usage Charges – Charges for minutes or messages traversing over local exchange facilities.

User or End User – A Customer, Joint User or any other person authorized by a Customer to use service provided under this Tariff.

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**SECTION 2 – RULES AND REGULATIONS**

**2.1 Undertaking of the Company**

**2.1.1 Scope**

The Company undertakes to furnish communications service pursuant to the terms of this Tariff in connection with one-way and/or two-way information transmission between points within the State of South Carolina.

The Company is responsible under this Tariff only for the services and facilities provided hereunder, and it assumes no responsibility for any service provided by any other entity that purchases access to the Company network in order to originate or terminate its own services, or to communicate with its own customers.

**2.1.2 Shortage of Equipment or Facilities**

- A.** The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of lack of facilities, or due to some other cause beyond the Company's control.
- B.** The furnishing of service under this Tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.1 Undertaking of the Company (Cont'd)****2.1.3 Terms and Conditions**

- A. Service is provided on the basis of a minimum period of at least thirty (30) days, 24 hours per day. For the purpose of computing charges in this Tariff, a month is considered to have 30 days.
- B. Except as otherwise stated in this Tariff, Customers may be required to enter into written service orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in this Tariff. Customers will also be required to execute any other documents as may be reasonably requested by the Company.
- C. At the expiration of the initial term specified in each Service Order, or in any extension thereof, service shall continue on a month-to-month basis at the then current rates unless terminated by either party upon notice. Any termination shall not relieve the Customer of its obligation to pay any charges incurred under the service order and this Tariff prior to termination. The rights and obligations which by their nature extend beyond the termination of the term of the service order shall survive such termination.
- D. The included tariff language does not constitute a determination by the PSC that a limitation of liability imposed by the Company should be upheld in a court of law. Acceptance for filing by the PSC recognizes that it is the court's responsibility to adjudicate negligence and consequential damage claims. It is also the court's responsibility to determine the validity of the exculpatory clause.
- E. Service may be terminated upon written notice to the Customer if:
  - 1. the Customer is using the service in violation of the Tariff; or
  - 2. the Customer is using the service in violation of the law.
  - 3. for any other reason determined by the Company that conforms to South Carolina Regulation 103-625.
- F. This Tariff shall be interpreted and governed by the laws of the State of South Carolina regardless of its choice of laws provision.
- G. No person or entity shall be required to make any payment, incur any penalty, monetary or otherwise, or purchase any services in order to have the right to obtain service directly from the Company.
- H. To the extent that either the Company or any other telephone company exercises control over available cable pairs, conduit, duct space, raceways, or other facilities needed by the other to reach a person or entity, the party exercising such control shall make them available to the other on terms equivalent to those under which the Company makes similar facilities under its control available to its customers. At the reasonable request of either party, the Company and the other telephone company shall join the attempt to obtain from the owner of the property access for the other party to serve a person or entity.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.1 Undertaking of the Company (Cont'd)****2.1.4 Limitations on Liability**

- A. Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays or errors, or other defects, representations, or use of these services; or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in Section 2.6.
- B. Except for the extension of allowances to the customer for interruptions in service as set forth in Section 2.6, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service.
- C. The liability of the Company for errors in billing that results in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed. This clause does not conflict with or trump the conditions set forth by Commission Regulations R103-623, 623.1, 623.2.
- D. The Company shall be indemnified and saved harmless by the Customer from and against all loss, liability, damage and expense, including reasonable counsel fees, due to:
1. Any act or omission of: (a) the Customer; (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen, except as contracted by the Company;
  2. Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any governing authority or agency thereof;
  3. Any unlawful or unauthorized use of the Company's facilities and services;
  4. Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the material transmitted by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services;
  5. Breach in the privacy or security of communications transmitted over the Company's facilities;

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.1 Undertaking of the Company (Cont'd)****2.1.4 Limitations on Liability (Cont'd)****D. (Cont'd)**

6. Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in paragraph A. of this Subsection 2.1.4;
7. Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof which is not the result of negligence;
8. Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any acts or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
9. Any noncompletion of calls due to network busy conditions;
10. Any calls not actually attempted to be completed during any period that service is unavailable;
11. And any other claim resulting from any act or omission of the Customer or patron(s) of the Customer relating to the use of the Company's services or facilities.

E. The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere.

F. The Company makes no warranties or representations, EXPRESS OR IMPLIED, either in fact or by operation of law, statutory or otherwise, including warranties of merchantability or fitness for a particular use, except those expressly set forth herein.

G. Failure by the Company to assert its rights pursuant to one provision of this rate sheet does not preclude the Company from asserting its rights under other provisions.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.1 Undertaking of the Company (Cont'd)****2.1.4 Limitations on Liability (Cont'd)**

- H. Directory Errors – In the absence of gross negligence or willful misconduct, no liability for damages arising from errors or mistakes in or omissions of directory listings, or errors or mistakes in or omissions of listing obtainable from the directory assistance operator, including errors in the reporting thereof, shall attach to the Company. An allowance for errors or mistakes in or omissions of published directory listings or for errors or mistakes in or omissions of listing obtainable from the directory assistance operator shall be at the monthly Tariff rate for each listing, or in the case of a free or no-charge directory listing, credit shall equal two times the monthly Tariff rate for an additional listing, for the life of the directory or the charge period during which the error, mistake or omission occurs.
- I. With respect to Emergency 911 Service:
1. This service is offered solely as an aid in handling assistance calls in connection with fire, police and other emergencies. The Company is not responsible for any losses, claims, demands, suits or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party or person for any personal injury or death of any person or person, and for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused by: (1) mistakes, omissions, interruptions, delays, errors or other defects in the provision of service; or (2) installation, operation, failure to operate, maintenance, removal, presence, condition, local or use of any equipment and facilities furnishing this service.
  2. Neither is the Company responsible for any infringement, nor invasion of the right of privacy of any person or persons, caused or claimed to have been caused directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of emergency 911 service features and the equipment associated therewith, or by any services furnished by the Company, including, but not limited to the identification of the telephone number, address or name associated with the telephone used by the party or parties accessing emergency 911 service, and which arise out of the negligence or other wrongful act of the Company, its users, agencies or municipalities, or the employees or agents of any one of them.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.1 Undertaking of the Company (Cont'd)****2.1.4 Limitations on Liability (Cont'd)****I. With respect to Emergency 911 Service (Cont'd)**

3. When a Customer with a nonpublished telephone number, as defined herein, places a call to the emergency 911 service, the Company will release the name and address of the calling party, where such information can be determined, to the appropriate local government authority responsible for emergency 911 service upon request of such governmental authority. By subscribing to service under this rate sheet, the Customer acknowledges and agrees with the release of information as described above.

**2.1.5 Notification of Service-Affecting Activities**

The Company will provide the Customer reasonable notification of service-affecting activities that may occur in normal operation of its business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements and routine preventative maintenance. Generally, such activities are not specific to an individual Customer but affect many Customers' services. No specific advance notification period is applicable to all service activities. The Company will work cooperatively with the Customer to determine the reasonable notification requirements. With some emergency or unplanned service-affecting conditions, such as an outage resulting from cable damage, notification to the Customer may not be possible.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.1 Undertaking of the Company (Cont'd)****2.1.6 Provision of Equipment and Facilities**

- A. The Company shall use reasonable efforts to make available services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with, the regulations contained in this Tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing service to any customer.
- B. The Company shall use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer. The Customer may not, nor may the Customer permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise interfere with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- C. The Company may substitute, change or rearrange any equipment or facility at any time and from time to time, but shall not thereby alter the technical parameters of the service provided by the Customer.
- D. Equipment the Company provides or installs at the Customer Premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which it was provided.
- E. The Customer shall be responsible for the payment of service charges as set forth herein for visits by the Company's agents or employees to the Premises of the Customer when the service difficulty or trouble report results from the use of equipment or facilities provided by any other party other than the Company, including, but not limited to, the Customer.
- F. The Company shall not be responsible for the installation, operation, or maintenance of any Customer-provided communications equipment. Where such equipment is connected to the facilities furnished pursuant to this Tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this Tariff and to the maintenance and operation of such facilities. Subject to this responsibility, the Company shall not be responsible for:
  - (1) the transmission of signals by Customer-provided equipment or for the quality of, or defects in, such transmission; or
  - (2) the reception of signals by Customer-provided equipment.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.1 Undertaking of the Company (Cont'd)****2.1.7 Non-routine Installation**

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays and/or night hours, additional hours may apply.

**2.1.8 Special Construction**

Subject to the agreement of the Company and to all of the regulations contained in this Tariff, special construction of facilities may be undertaken on a reasonable efforts basis at the request of the Customer. Special construction is that construction undertaken:

- A. where facilities are not presently available, and there is no other requirement for the facilities so constructed;
- B. of a type other than that which the Company would normally utilize in the furnishing of its services;
- C. over a route other than that which the Company would normally utilize in the furnishing of its services;
- D. in a quantity greater than that which the Company would normally construct;
- E. on an expedited basis;
- F. on a temporary basis until permanent facilities are available;
- G. involving abnormal costs; or
- H. in advance of its normal construction.

**2.1.9 Ownership of Facilities**

Title to all facilities provided in accordance with this Tariff remains in the Company, its partners, agents, contractors or suppliers.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.2 Prohibited Uses**

- 2.2.1 The services the Company offers shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits.
- 2.2.2 The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and PSC regulations, policies, orders, and decisions or South Carolina Regulation 103-625.
- 2.2.3 The Company may block any signals being transmitted over its Network by Customers which cause interference to the Company or other users. Customer shall be relieved of all obligations to make payments for charges relating to any blocked Service and shall indemnify the Company for any claim, judgment or liability resulting from such blockage.
- 2.2.4 A customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated communications services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this Tariff will apply.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.3 Obligations of the Customer****2.3.1 General**

The Customer is responsible for making proper application for service; placing any necessary order, complying with Tariff regulations; payment of charges for services provided. Specific Customer responsibilities include, but are not limited to the following:

- A. the payment of all applicable charges pursuant to this Tariff;
- B. damage to or loss of the Company's facilities or equipment caused by the acts of omissions of the Customer; or the noncompliance by the Customer, with these regulations; or by fire or theft or other casualty on the Customer Premises due to Customer negligence, unless caused by the negligence or willful misconduct of the employees or agents of the Company;
- C. providing at no charge, as specified from time to time by the Company, any needed personnel, equipment space and power to operate Company facilities and equipment installed on the premises of the Customer, and the level of heating and air conditioning necessary to maintain the proper operating environment on such premises;
- D. obtaining, maintaining, and otherwise having full responsibility for all rights-of-way and conduits necessary for installation of fiber optic cable and associated equipment used to provide Communication Services to the Customer from the cable building entrance or property line to the location of the equipment space described in 2.3.1(C.). Any and all costs associated with obtaining and maintaining the rights-of-way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be borne entirely by, or may be charged by the Company to, the Customer. The Company may require the Customer to demonstrate its compliance with this section prior to accepting an order for service;

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.3 Obligations of the Customer (Cont'd)****2.3.1 General (Cont'd)**

- E. providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury or damage to the Company's employees or property might result from installation or maintenance by the Company. The Customer shall be responsible for identifying, monitoring, removing and disposing of any hazardous material (e.g., asbestos) prior to any construction or installation work;
- F. complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Customer premises or the rights-of-way for which Customer is responsible under Section 2.3.1(D); and granting or obtaining permission for Company agents or employees to enter the premises of the Customer at any time for the purpose of installing, inspecting, maintaining, repairing, or upon termination of service as stated herein removing the facilities or equipment of the Company;
- G. not creating, or allowing to be placed, any liens or other encumbrances on the Company's equipment or facilities; and
- H. making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which service is interrupted for such purposes.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.3 Obligations of the Customer (Cont'd)****2.3.2 Liability of the Customer**

- A. The Customer will be liable for damages to the facilities of the Company (provided for the general wear and tear of equipment) and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invites, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.
- B. To the extent caused by any negligent or intentional act of the Customer as described in A., preceding, the Customer shall indemnify, defend and hold harmless the Company from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees, for (1) any loss, destruction or damage to property of any third party, and (2) any liability incurred by the Company to any third party pursuant to this or any other rate sheet of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.
- C. The Customer shall not assert any claim against any other Customer or user of the Company's services for damages resulting in whole or in part from or arising in connection with the furnishing of service under this rate sheet including, but not limited to, mistakes, omissions, interruptions, delays, errors or other defects or misrepresentations, whether or not such other Customer or user contributed in any way to the occurrence of the damages, unless such damages were caused solely by the negligent or intentional act or omission of the other Customer or user and not by any act or omission of the Company. Nothing in this tariff is intended either to limit or to expand Customer's right to assert any claims against third parties for damages of any nature other than those described in the preceding sentence.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.4 Customer Equipment and Channels****2.4.1 General**

A User may transmit or receive information or signals via the facilities of the Company. The Company's services are designed primarily for the transmission of voice-grade telephonic signals, except as otherwise stated in this Tariff. A User may transmit any form of signal that is compatible with the Company's equipment, but the Company does not guarantee that its services will be suitable for purposes other than voice-grade telephonic communication except as specifically stated in this Tariff.

**2.4.2 Station Equipment**

- A. Terminal equipment on the User's Premises and the electric power consumed by such equipment shall be provided by and maintained at the expense of the User. The User is responsible for the provision of wiring or cable to connect its terminal equipment to the Company Point of Connection.
- B. The Customer is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company-provided equipment and wiring or injury to the Company's employees or to other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense, subject to prior Customer approval of the equipment expense.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)**

**2.4 Customer Equipment and Channels (Cont'd)**

**2.4.3 Interconnection of Facilities**

- A. Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Communication Services and the channels, facilities, or equipment of others shall be provided at the Customer's expense.
- B. Communications Services may be connected to the services or facilities of other communications carriers only when authorized by, and in accordance with, the terms and conditions of the Tariffs of the other communications carriers that are applicable to such connections.
- C. Facilities furnished under this Tariff may be connected to Customer-provided terminal equipment in accordance with the provisions of this Tariff. All such terminal equipment shall be registered by the Federal Communications Commission pursuant to Part 68 of Title 47, Code of Federal Regulations; and all User-provided wiring shall be installed and maintained in compliance with those regulations.
- D. Users may interconnect communications facilities that are used in whole or in part for interstate communications to services provided under this Tariff only to the extent that the user is an "End User" as defined in Section 69.2(m), Title 47, Code of Federal Regulations (1992 edition).

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.4 Customer Equipment and Channels (Cont'd)****2.4.4 Inspections**

- A. Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements set forth in Section 2.4.2A. for the installation, operation, and maintenance of Customer-provided facilities, equipment, and wiring in the connection of Customer-provided facilities and equipment to Company-owned facilities and equipment. The Company will keep records of such tests, including date, time, and reason for testing. These records will be made available to the ORS upon request.
- B. If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten days of receiving this notice, the Customer must take this corrective action and notify the Company of the action taken. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment and personnel from harm.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.5 Payment Arrangements****2.5.1. Payment for Service**

The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer and to all Authorized Users by the Customer, regardless of whether those services are used by the Customer itself or are resold to or shared with other persons.

The Customer is responsible for payment of any sales, use, gross receipts, excise, access or other local, state, federal and 911 taxes, charges or surcharges (however designated) (excluding taxes on Company's net income) imposed on or based upon the provision, sale or use of Network Services. The Company will not separately charge for the South Carolina gross receipts tax on the Company's invoice for local services. Any taxes imposed by a local jurisdiction (e.g., county and municipal) will only be recovered from those Customers residing in the affected jurisdictions. These charges will appear as a separate line item on the Customer's bill.

Certain telecommunications services, as defined in the South Carolina Revised Code, are subject to state sales tax at the prevailing tax rates, if the services originate, or terminate in South Carolina, or both, and are charged to a subscriber's telephone number or account in South Carolina.

The security of the Customer's PIN is the responsibility of the Customer. All calls placed using a PIN shall be billed to and shall be the obligation of the Customer. The Customer shall not be responsible for charges in connection with the unauthorized use of PINs arising after the Customer notifies the Company of the loss, theft, or other breach of security of such PINs.

Customers will only be charged once, on either an interstate or intrastate basis, for any nonrecurring charges.

**2.5.2 Billing and Collection of Charges**

The Customer is responsible for payment of all charges incurred by the Customer or other Authorized Users for services and facilities furnished to the Customer by the Company.

- A. Nonrecurring charges are due and payable within thirty (30) days of receipt of bill, unless otherwise agreed to in advance.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.5 Payment Arrangements (Cont'd)****2.5.2 Billing and Collection of Charges (Cont'd)**

- B. The Company shall present invoices for recurring charges monthly to the Customer, in advance of the month in which service is provided, and Recurring Charges shall be due and payable within thirty (30) days after the invoice date. When billing is based on customer usage, charges will be billed monthly for the preceding billing periods.
- C. When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have thirty (30) days.
- D. Billing of the Customer by the Company will begin on the Service Commencement Date, which is the first day following the date on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility does not conform to standards set forth in this Tariff or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued.
- E. A maximum of one and one half percent (1 1/2%) may be added to any unpaid balance brought forward from the previous billing date to cover the cost of collection and carrying accounts in arrears. This method of late payment charge will be made in lieu of any other penalty. Billing for 900 and 900-type charges or non-regulated items are excluded from the balance on which a late fee may be imposed.
- F. The Customer will be assessed a charge for each check or other payment type submitted by the Customer to the Company that a bank or other financial institution refuses to honor. The charge may be equal but not exceed the rate allowed by the S.C. Code Annotated, Section 34-11-70.
- G. If service is disconnected by the Company in accordance with Section 2.5.6 following and later restored, restoration of service will be subject to all applicable installation charges.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.5 Payment Arrangements (Cont'd)****2.5.3 Disputed Bills**

- A. In the event that a billing dispute occurs concerning any charges billed to the Customer by the Company, the Company may require the Customer to pay the undisputed portion of the bill to avoid discontinuance of service for non-payment. The Customer must submit a documented claim for the disputed amount. The Customer will submit all documentation as may reasonably be required to support the claim. All claims must be submitted to the Company within 90 days of receipt of billing for those services. If the Customer does not submit a claim as stated above, the Customer waives all rights to filing a claim thereafter. The 90-day requirement does not conflict with or trump the conditions set forth by Commission Regulations R103-623, 623.1, 623.2.
- B. The Customer should notify the Company of any disputed items on an invoice within an interval from receipt of the invoice that is within the State's statute of limitations. If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file a complaint with the Consumer Services Department of the Office of Regulatory Staff (ORS) in accordance with the Commission's rules of procedure. The address of the ORS is as follows:

South Carolina Office of Regulatory Staff  
Consumer Services Department  
1441 Main Street, Suite 300  
Columbia, South Carolina 29201  
Telephone Number: 803-737-5230  
Toll-Free Number: 800-922-1531  
Fax Number: 803-737-4750

- C. If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, no interest credits or penalties will apply.

- 2.5.4 Returned Check Charge.** The Company will assess a return check charge consistent with SC Code 34-11-70 whenever a check or draft presented for payment of service is not accepted by the institution on which it is written. This charge applies each time a check is returned to the Company by a bank for insufficient funds.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)**

**2.5 Payment Arrangements (Cont'd)**

**2.5.5 Deposits**

The Company does not collect Customer Deposits.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.5 Payment Arrangements (Cont'd)****2.5.6 Discontinuance of Service**

- A. Upon nonpayment of any amounts owing to the Company, the Company may, by giving five (5) days' written notice to the Customer, discontinue or suspend service without incurring any liability. No basic residential service shall be disconnected for nonpayment until at least 20 days from the date of the bill and only following proper written notification. Service will only be terminated on Monday through Thursday between the hours of 8:00 am and 4:00 pm, unless provisions have been made to have someone available to accept payment and reconnect service.
- B. Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving five (5) days' written notice to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- C. Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)**

**2.5 Payment Arrangements (Cont'd)**

**2.5.6 Discontinuance of Service (Cont'd)**

- D. Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.
- E. In the event of fraudulent use of the Company's network, the Company will discontinue service without notice and/or seek legal recourse to recover all costs involved in enforcement of this provision.
- F. Without notice in the event of Customer use of equipment or services in such a manner as to adversely affect the Company's service to others.
- G. Without notice in the event of tampering with the equipment or services furnished by the Company as it may conform to South Carolina Regulation 103-625.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.5 Payment Arrangements (Cont'd)****2.5.7 Cancellation of Application for Service**

- A. Applications for service may be canceled orally or in writing. If applications are canceled prior to the start of service or prior to any special construction, no charges will be imposed except for those specified below.
- B. Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs incurred by the Company, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of services ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the Customer had service commenced.
- C. Where the Company incurs any expense in connection with special construction, or where special arrangements of facilities or equipment have begun, before the Company receives a cancellation notice, a charge equal to the costs incurred by the Company, less net salvage, applies. In such cases, the charge will be based on such elements as the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.
- D. The special charges described in 2.5.7.A. through 2.5.7.C. will be calculated and applied on a case-by-case basis.

**2.5.8 Changes in Service Requested**

If the Customer makes or request material changes in circuit engineering, equipment specifications, service parameters, premises locations, or otherwise materially modifies any provision of the application for service, the Customer's installation fee shall be adjusted accordingly.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.6 Allowances for Interruptions in Service**

Interruptions in service that are not due to the negligence of, or noncompliance with the provisions of this Tariff by, the Customer or the operation or malfunction of the facilities, power or equipment provided by the Customer, will be credited to the Customer as set forth in 2.6.1 for the part of the service that the interruption affects. Records of interruptions of Service will be maintained by the Company. These records will include the date, time, reasons, and steps taken to correct the Interruption. These records will be made available to the ORS upon request.

**2.6.1 General**

- A. A credit allowance will be given when service is interrupted, except as specified below. A service is interrupted when it becomes inoperative to the Customer, e.g., the Customer is unable to transmit or receive, because of a failure of a component furnished by the Company under this Tariff.
- B. An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative.
- C. If the Customer reports a service, facility or circuit to be interrupted but declines to release it for testing and repair, or refuses access to its premises for test and repair by the Company, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility or circuit considered by the Company to be impaired.
- D. The Customer shall be responsible for the payment of service charges as set forth herein for visits by the Company's agents or employees to the premises of the Customer when the service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company, including, but not limited to, the Customer.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)**

**2.6. Allowances for Interruptions in Service (Cont'd)**

**2.6.2 Limitations of Allowances**

No credit allowance will be made for any interruption in service:

- A. Due to the negligence of or noncompliance with the provisions of this rate sheet by any person or entity other than the Company, including, but not limited to, the Customer;
- B. Due to the failure of power, equipment, systems, connections or services not provided by the Company;
- C. Due to circumstances or causes beyond the reasonable control of the Company;
- D. During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- E. A service will not be deemed to be interrupted if a Customer continues to voluntarily make use of such service. If the service is interrupted, the Customer can get a service credit, use another means of communications provided by the Company (pursuant to Section 2.6.3), or utilize another service provider;
- F. During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- G. That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; and
- H. That was not reported to the Company within thirty (30) days of the date that service was affected.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)**
**2.6 Allowances for Interruptions in Service (Cont'd)****2.6.3 Use of Another Means of Communication**

If the Customer elects to use another means of communications during the period of interruption, the Customer must pay the charges for the alternative service used.

**2.6.4 Application for Credits for Interruptions in Service**

- A. Credits for interruptions in service that is provided and billed on a flat rate basis for a minimum period of at least one month, beginning on the date that billing becomes effective, shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the period of service during which the event that gave rise to the claim for a credit occurred. A credit allowance is applied on a pro rata basis against the rates specified hereunder and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit.
- B. For calculating credit allowances, every month is considered to have thirty (30) days.
- C. A credit allowance will be given for interruptions of thirty (30) minutes or more. Two or more interruptions of fifteen (15) minutes or more during any one 24-hour period shall be combined into one cumulative interruption.
- D. Interruptions of 24 Hours or Less

<b>Length of Interruption</b>	<b>Amount of Service to be Credited</b>
Less than 30 minutes	None
30 minutes up to but not including 3 hours	1/10 Day
3 hours up to but not including 6 hours	1/5 Day
6 hours up to but not including 9 hours	2/5 Day
9 hours up to but not including 12 hours	3/5 Day
12 hours up to but not including 15 hours	4/5 Day
15 hours up to but not including 24 hours	One Day

**E. Interruptions Over 24 Hours and Less Than 72 Hours**

Interruptions over 24 hours and less than 72 hours will be credited 1/5 day for each 3-hour period or fraction thereof. No more than one full day's credit will be allowed for any period of 24 hours.

**F. Interruptions Over 72 Hours**

Interruptions Over 72 hours will be credit 2 days for each full 24-hour period. No more than thirty (30) days credit will be allowed for any one-month period.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.6 Allowances for Interruptions in Service (Cont'd)****2.6.5 Cancellation for Service Interruption**

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 8 hours or more or cumulative service credits equaling 16 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit that has been subject to the outage or cumulative service credits.

**2.7 Use of Customer's Service by Others****2.7.1 Joint Use Arrangements**

Joint use arrangements will be permitted for all services provided under this Tariff. From each joint use arrangement, one member will be designated as the Customer responsible for the manner in which the joint use of the service will be allocated. The Company will accept orders to start, rearrange, relocate or discontinue service only from the designated Customer. Without affecting the Customer's ultimate responsibility for payment of all charges for the service, each joint user shall be responsible for the payment of the charges billed to it.

**2.7.2 Resale**

SECTION 2.7.2 IS AVAILABLE ONLY TO CARRIERS WHICH ARE CERTIFIED BY THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION TO PROVIDE INTRASTATE LOCAL EXCHANGE SERVICES

There are no prohibitions or limitations on the resale of services. Prices for services appear in the price sheet attached to this tariff. Any service provided under this tariff may be resold to other persons at the option of Customer, subject to compliance with any applicable laws of the South Carolina Public Service Commission regulations governing such resale.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.8 Cancellation of Service/Termination Liability**

If a Customer cancels a Service Order or terminates services before the completion of the term for any reason whatsoever other than a service interruption (as defined in Section 2.6.1 above), the Customer agrees to pay to the Company termination liability charges, as defined below. These charges shall become due as of the effective date of the cancellation or termination and be payable within the period, set forth in Section 2.5.2.

**2.8.1 Termination Liability**

The Customer's termination liability for cancellation of service shall be equal to:

- A. all unpaid Non-Recurring charges reasonably expended by the Company to establish service to the Customer; plus
- B. any disconnection, early cancellation or termination charges reasonable incurred and paid to third parties by the Company on behalf of the Customer; plus
- C. all Recurring Charges specified in the applicable Service Order Tariff for the balance of the then current term discounted at the prime rate announced in the Wall Street Journal on the third business day following the date of cancellation.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)**

**2.9 Transfers and Assignments**

Neither the Company nor the Customer may assign or transfer its rights or duties in connection with the services and facilities provided by the Company without the written consent of the other party, except that the Company may assign its rights and duties:

- 2.9.1 to any subsidiary, parent company or affiliate of the Company; or
- 2.9.2 pursuant to any sale or transfer of substantially all the assets of the Company; or
- 2.9.3 pursuant to any financing, merger or reorganization of the Company.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.10 Customer Liability for Unauthorized Use of the Network**

Unauthorized use of the network occurs when a person or entity that does not have actual, apparent or implied authority to use the network, obtains the Company's services provided under this Tariff.

**2.10.1 Customer Liability for Fraud and Unauthorized Use of the Network**

- A. The Customer is liable for the unauthorized use of the network obtained through the fraudulent use of a Company calling card, if such a card is offered by the Company, or an accepted credit card, provided that the unauthorized use occurs before the Company has been notified.
- B. A Company calling card is a telephone calling card issued by the Company at the Customer's request, which enables the Customer or user(s) authorized by the Customer to place calls over the Network and to have the charges for such calls billed to the Customer's account.

An accepted credit card is any credit card that a cardholder has requested or applied to and received, or has signed, used, or authorized another person to use to obtain credit. Any credit card issued as a renewal or substitute in accordance with this paragraph is an accepted credit card when received by the cardholder.

- C. The Customer must give the Company written or oral notice that an unauthorized use of a Company calling card or an accepted credit card has occurred or may occur as a result of loss and/or theft.
- D. The Customer is responsible for payment of all charges for calling card services furnished to the Customer or to users authorized by the Customer to use service provided under this rate sheet, unless due to the negligence of the Company. This responsibility is not changed due to any use, misuse or abuse of the Customer's service or Customer-provided equipment by third parties, the Customer's employees, or the public.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.11 Notices and Communications**

- 2.11.1 The Customer shall designate on the Service Order an address to which the Company shall mail or deliver all notices and other communications, except that the Customer may also designate a separate address to which the Company's bills for service shall be mailed.
- 2.11.2 The Company shall designate on the Service Order an address to which the Customer shall mail or deliver all notices and other communications, except that Company may designate a separate address on each bill for service to which the Customer shall mail payment on that bill.
- 2.11.3 Except as otherwise stated in this Tariff, all notices or other communications required to be given pursuant to this Tariff will be in writing. Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the third business day following placement of the notice, communication or bill with the U.S. Mail or a private delivery service, prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first.
- 2.11.4 The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

**2.12 Taxes, Fees and Surcharges**

The Company reserves the right to bill any and all applicable taxes, fees and surcharges in addition to the normal rates and charges for services provided to the Customer. Taxes and fees include, but are not limited to, Federal Excise Tax, State Sales Tax, and Municipal Tax. Unless otherwise specified in this tariff, such taxes, fees and surcharges are in addition to rates as quoted in this tariff and will be itemized separately on Customer invoices.

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**SECTION 2 – RULES AND REGULATIONS (CONT'D)****2.13 Miscellaneous Provisions****2.13.1 Telephone Number Changes**

Whenever any Customer's telephone number is changed after a directory is published, the Company shall intercept all calls to the former number for at least one hundred and twenty (120) days and give the calling party the new number provided existing central office equipment will permit, and the Customer so desires.

When service in an existing location is continued for a new Customer, the existing telephone number may be retained by the new Customer only if the former Customer consents in writing, and if all charges against the account are paid or assumed by the new Customer.

**2.13.2 Maintenance and Operations Records**

Records of various tests and inspections, to include non-routine corrective maintenance actions or monthly traffic analysis summaries for network administration, necessary for the purposes of the Company or to fulfill the requirements of Commission rules shall be kept on file in the office of the Company as required under Commission rules.

**2.13.3 Marketing**

As a telephone utility under the regulation of the South Carolina Public Service Commission, the Company hereby asserts and affirms that as a reseller of intrastate service, the Company will not indulge or participate in deceptive or misleading telecommunications marketing practices to the detriment of consumers in South Carolina, and the Company will comply with those marketing practices, if any, set forth by the Commission. Additionally, the Company will be responsible for the marketing practices of its contracted telemarketers for compliance with the provision. The Company understands that violation of this provision could result in a rule to Show Cause as to the withdrawal of its certification to complete intrastate telecommunications traffic within the State of South Carolina.

**2.14 Customer Responsibility****A. Cancellation by Customer**

Customers may cancel service verbally or in writing. The Company shall hold the Customer responsible for payment of all charges, including fixed fees, surcharges, etc., which accrue up to the cancellation date. Customers that cancel the primary local exchange line will have the entire Account disconnected, including any secondary line and all associated features. In the event the Customer executes a term commitment agreement with the Company, the Customer must cancel service and terminate the agreement in accordance with the agreement terms.

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**SECTION 3 – SERVICE AREAS****3.1 Exchange Service Areas**

Local exchange services are provided, subject to availability of facilities and equipment, in areas currently served by the following Incumbent LECs: 1) BellSouth Telecommunications d/b/a AT&T South Carolina.

**3.2 Rate Groups**

Charges for local services provided by the Company in certain areas may be based, in part, on the Rate Group associated with the Customer's End Office. The Rate Group is determined by the total access lines and PBX trunks in the local calling area which can be reached from each End Office.

In the event that an Incumbent LEC or the South Carolina Public Service Commission reclassifies an exchange or End Office from one Rate Group to another, the reclassification will also apply to Broadview Networks, Inc. customers who purchase services under this tariff. Local calling areas and Rate Group assignments are equivalent to those areas and groups specified in AT&T South Carolina's General Subscriber Service Tariff ("GSST").

<b>Rate Group</b>	<b>Exchange Access Lines and PBX Trunks in Local Calling Area – Upper Limit</b>
1	0 to 7,000
2	7,001 to 15,000
3	15,001 to 28,500
4	28,501 to 50,000
5	50,001 to 78,000
6	78,001 to 125,000
7	125,000 up

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## SECTION 3 – SERVICE AREAS (Cont'd)

## 3.3 Exchange and UNE Zone Listings

Exchange	UNE Zone	Additional Exchanges
Aiken	2	Bath, Beech Island, Graniteville, Jackson, New Ellenton, North Septembera
Allendale	3	Barnwell, Fairfax
Anderson	1	Belton, Honea Path, Pelzer, Pendleton, Starr-Iva, Williamston
Antioch	N/A	Blacksburg, Grover, NC, Kings Mountain, NC, Shelby, NC
Bamberg	2	Denmark, Ehrhardt, Orangeburg
Barnwell	3	Allendale, Blackville, Denmark, Williston
Batesburg	3	Pond Branch, Ridge Spring
Bath	1	Aiken, Septembera, GA, Beech Island, Graniteville, Jackson, North Septembera
Beech Island	1	Aiken, Appling, GA, Septembera, GA, Bath, Harlem, GA, Hephzibah, GA, Jackson, North Septembera
Belton	2	Anderson, Honea Path, Pelzer, Williamston
Bennettsville	3	Blenheim, Clio, McColl
Blacksburg	3	Gaffney, Grover, NC (includes those exchange access lines in Antioch, SC which are part of the Grover, NC exchange), Hickory Grove
Blackville	3	Barnwell, Denmark, Williston
Blenheim	3	Bennettsville, Clio, McColl
Blue Ridge	1	Greenville, Greer, Lyman, Travelers Rest
Camden	3	Bethune
Central	2	Clemson, Easley, Liberty, Pickens, Six Mile
Chapin-Little Mountain	1	Newberry, Prosperity, Chapin-Little Mountain South
Chapin-Little Mountain South	1	Columbia, Chapin-Little Mountain North
Charleston	1	Folly Beach, Hollywood, Isle of Palms, Mt. Pleasant, Sullivans Island, Summerville
Cheraw	3	Chesterfield, Patrick
Clemson	2	Central, Pendleton, Seneca, Six Mile
Clinton	3	Joanna, Laurens, Laurens Rural
Clio	3	Bennettsville, Blenheim, McColl
Clover	2	Gastonia, NC (includes those exchange access lines located in Mill Creek, SC and vicinity which are a part of the Gastonia, NC exchange), Lake Wylie, Lake Wylie West, South Crowders Creek, NC, York
Columbia	1	Chapin-Little Mountain South, Eastover, Lexington
Cowpens	1	Spartanburg

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## SECTION 3 – SERVICE AREAS (Cont'd)

## 3.3 Exchange and UNE Zone Listings

Darlington	1	Florence, Hartsville, Lamar, Society Hill, Timmons ville
Denmark	3	Bamberg, Barnwell, Blackville, Olar
Dillon	3	Dillon, NC, Florence, Lake View, Latta
Easley	1	Central, Greenville, Liberty, Pickens, Six Mile
Eastover	1	Columbia
Edgefield	3	Johnston
Edisto Island	3	None
Florence	1	Darlington, Hartsville, Lamar, Marion, Mullins, Nichols, Pamplico, Society Hill, Timmons ville
Folly Beach	1	Charleston, Isle of Palms, Mt. Pleasant, Sullivans Island
Fountain Inn	1	Greenville, Simpsonville
Gaffney	3	Blacksburg
Graniteville	2	Aiken, Bath, North Septembara, portion of Beech Isalnd located within the property boundaries of the Savannah River Site
Greenville	1	Blue Ridge, Easley, Fountain Inn, Greer, Liberty, Pickens, Piedmont, Simpsonville, Travelers Rest
Greer	1	Blue Ridge, Greenville, Lyman
Hartsville	1	Darlington, Frence, Lamar, McBee, Patrick, Society Hill, Timmons ville
Hickory Grove	3	Blacksburg, Sharon, York
Honea Patch	2	Anderson, Belton, Due West
Isle of Palms	1	Charleston, Folly Beach, Mt. Pleasant, Sullivans Island
Joanna	3	Clinton, Laurens, Laurens Rural
Johnston	3	Edgefield, Ridge Spring
Jonesville	3	Pacolet, Union
Lake View	3	Dillon, Dillon, NC, Florence, Latta
Lake Wylie	2	Charlotte, NC, Clover, Gastonia, NC (includes those exchange access lines located in Mill Creek, SC, and vicinity which are a part of the Gastonia, NC exchange), Lake Wylie West, South Crowders Creek, NC, York
Lake Wylie West	2	Clover, Gastonia, NC (includes those exchange access lines located in Mill Creek, SC, and vicinity which are a part of the Gastonia, NC exchange), Lake Wylie, South Crowders Creek, NC, York
Latta	3	Dillon, Dillon, NC, Florence, Lake view
Liberty	2	Central, Easley, Greenville, Pickens, Six Mile
Lyman	1	Blue Ridge, Greer, Inman, Spartanburg

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**SECTION 3 – SERVICE AREAS (Cont'd)**
**3.3 Exchange and UNE Zone Listings**

Marion	2	Florence, Mullins, Nichols
McColl	3	Bennettsville, Blenheim, Clio
Mill Creek	N/A	Belmont, NC, Bessemer City, NC, Clover, Gastonia, NC, Kings Mountain, NC, Lake Wylie, Lake Wylie West, Lowell, NC, Mt. Holly, NC, South Crowders Creek, NC, Stanley, NC
Mt. Pleasant	1	Charleston, Folly Beach, Isle of Palms, Sullivans Island
Mullins	2	Florence, Floyds, Marion, Nichols
Newberry	3	Chapin-Little Mountain North, Prosperity, Whitmire
New Ellenton	2	Aiken, Jackson, portion of Beech Island located within the property boundaries of the Savannah River Site
Newtonville	N/A	Gibson, NC, Laurel Hill, NC, Laurinburg
Nichols	2	Florence, Floyds, Marion, Mullins
Pickens	2	Central, Easley, Greenville, Liberty, Six Mile
Piedmont	1	Greenville
Prosperity	3	Chapin-Little Mountain North, Newberry
Rowland	N/A	Fairmont, NC, Lumberton, NC, Maxton, NC, Parkton, NC, Pembroke, NC, Red Springs, NC, Rowland, NC, St. Pauls, NC
Salem	2	Seneca, Walhalla, Westminster
Seneca	2	Clemson, Salem, Walhalla, Westminster
Sharon	3	Hickory Grove, York
Six Mile	2	Central, Clemson, Easley, Liberty, Pickens
Society Hill	2	Darlington, Florence, Hartsville
Spartanburg	1	Chesnee, Cowpens, Enoree, Inman, Lyman, Pacolet, Woodruff
Springfield-Salley	3	Wagener
St. George	3	Harleyville
Sullivans Island	1	Charleston, Folly Beach, Isle of Palms, Mt. Pleasant
Summerville	1	Charleston, Folly Beach, Isle of Palms
Timmonsville	1	Darlington, Florence, Hartsville, Lamar
Travelers Rest	1	Blue Ridge, Greenville
Union	3	Jonesville, Lockhart
Walhalla	2	Salem, Seneca, Westminster
Westminster	2	Salem, Seneca, Walhalla
Whitmire	3	Newberry
Williamston	2	Anderson, Belton, Pelzer
York	2	Clover, Hickory Grove, Lake Wylie, Lake Wylie West, Rock Hill, Sharon, South Crowders Creek, NC

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**SECTION 4 – BASIC SERVICES AND RATES**

**4.1 Call Timing for Usage Sensitive Services**

Where charges for a service are specified based on the duration of use, such as the duration of a telephone call, the following rules apply:

**4.1.1** Calls are measured in durational increments identified for each service. All calls which are fractions of a measurement increment are rounded up to the next whole unit.

**4.1.2** Timing on completed calls begins when the call is answered by the called party. Answering is determined by hardware answer supervision in all cases where this signaling is provided by the terminating local carrier and any intermediate carrier(s).

**4.1.3** Timing terminates on all calls when the calling party hangs up or the Company's network receives an off-hook signal from the terminating carrier.

**4.2 Distance Calculations**

The Company does not offer distance sensitive services.

**4.3 Rate Periods for Time of Day Sensitive Services**

The Company does not offer time of day sensitive services.

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**SECTION 4 – BASIC SERVICES AND RATES (Cont'd)**

**4.4 Local Exchange Service**

**4.4.1 General**

The Company offers Basic Local Service to customers seeking basic local exchange services. Voice Mail and other Custom Calling Features are available to Basic Local Service customers by selecting such services a la carte.

The Company provides Customers with the option of obtaining a Primary Line and Secondary Line per account:

**A. Primary Line**

The initial local exchange access line per account.

**B. Secondary Line**

The second or additional residential local exchange access line, billed to the same address as the Primary Line, the Secondary Line will share the monthly call allowance with the Primary Line. The Secondary Line does not automatically include or share any Custom Calling Features. Feature Packages may be purchased separately.

Should a Customer with both lines opt to disconnect the Primary Line, the remaining Secondary Line will automatically convert to a Primary Line with all features and functionality of such, and at the Primary Line monthly recurring rate.

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**SECTION 4 – BASIC SERVICES AND RATES (Cont'd)****4.5 Local Dialtone Service****4.5.1 General**

The Company offers local dialtone service to customers in the Exchange Areas listed in Section 3.1. Local dialtone service allows customers to initiate and terminate calls within their local calling areas.

**4.5.2 Rates**

A.	Service Connection Fee, one-time charge per line:	
	Primary Line	\$10.95
	Secondary Line	\$10.95
B.	Monthly Rate	
	Primary Line	\$34.95
	Secondary Line	\$34.95

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**SECTION 4 – BASIC SERVICES AND RATES (Cont'd)****4.6 Basic Local Service Package****4.6.1 General**

Basic Local Service Package provides customers with local dialtone service and includes the Customer Calling features listed below:

Caller ID – Allows a Customer to see a caller's number previewed on a display screen before the call is answered. Caller ID requires the use of specialized CPE not provided by the Company.

Call Waiting - Call Waiting provides a tone signal to indicate to a Customer already engaged in a telephone call that a second caller is attempting to dial in. This feature permits the Customer to place the first call on hold, answer the second call and then alternate between both calls.

Three Way Calling – Permits the Customer to add a third party to an established connection. When the third party answers, a two-way conversation can be held before adding the original party for a three-way conference.

**4.6.2 Rates**

A.	Service Connection Fee, one-time charge per line:	
	Primary Line	\$19.95
	Secondary Line	\$19.95
B.	Monthly Rate	
	Primary Line	\$44.95
	Secondary Line	\$44.95

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES****5.1 Service Change Charges**

Non-recurring charges apply to processing Service Orders for new service, for changes in service, and for changes in the Customer's primary interexchange carrier (PIC) code.

**5.1.1 Service Order Charges**

Transfer of Service Charge, Primary Line – applies to the first line of a Transfer of Service Order (TOS), when a customer requests a move or change in physical location. This charge applies whether a customer changes telephone number or not. If, in addition, the Customer requests the telephone number be changed, a separate charge may apply.

Transfer of Service Charge, Secondary Line – applies to the second, or third, etc., line of a Transfer of Service Order (TOS), when a customer requests a move or change in physical location. This charge applies whether a customer changes telephone number or not. If, in addition, the Customer requests the telephone number be changed, a separate charge may apply.

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.1 Service Order and Change Charges (Cont'd)****5.1.2 Change Order Charges**

Change Order Charges apply to work associated with providing exchange line service or customer-requested changes to existing services. One charge applies for each change order requested by the customer. If multiple changes listed below are requested by the Customer and occur on the same order/request one charge only applies. A Change Order Service Charge applies to the following customer-initiated changes:

Custom Calling Feature Change Order – applies when a Customer requests a change, adding or removing a custom calling feature.

Telephone Number Change Order – applies to each telephone number change request/order.

Listing Change Charge – applies when a Customer requests/orders a change to add or delete a white pages listing or requests a change to add/delete listings. This charge also applies to request for Non-Published or Non-Listed numbers.

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**SECTION 5 –MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.1 Service Order and Change Charges (Cont'd)****5.1.3 Rates**

<u>Service Order Charges</u>	<u>Rates</u>
Primary Service Connection Charge	*
Secondary Service Connection Charge	*
Transfer of Service Charge, Primary Line	\$40.00
Transfer of Service Charge, Secondary Line	\$20.00
Service Order Charge	N/A
 <u>Change Order Service Charges</u>	
Custom Calling Feature Change Order	\$15.00
Telephone Number Change Order	\$5.00
Listing Change Charge	\$5.00

\*Service Connection charges are listed with the rates for each specific service tariffed.

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.2 Restoration of Service**

A restoration charge applies to the restoration of suspended service and facilities because of nonpayment of bills and is payable at the time that the restoration of the suspended service and facilities is arranged. The restoration charge does not apply when, after disconnection of service, service is later re-installed.

	<u>Rate</u>
Per occasion	\$25.00

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.3 Premise Visit and After Hours Maintenance/Installation Charges**

## Premise Visit Charges:

	<u>Rate</u>
First 15 minutes	\$25.00
Each subsequent 15 minutes	\$15.00

## After Hours Maintenance/Installation Charges:

	<u>Rate</u>
First 15 minutes	\$25.00
Each subsequent 15 minutes	\$15.00

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.4 Public Telephone Surcharge**

In order to recover the Company's expenses to comply with the FCC's pay telephone compensation plan effective on October 7, 1997 (FCC 97-371), an undiscountable per call charge is applicable to all intrastate calls that originate from any pay telephone used to access Company provided services. This surcharge, which is in addition to standard tariffed usage charges and any applicable service charges and surcharges associated with service, applies for the use of the instrument used to access Company provided service and is unrelated to the service accessed from the pay telephone.

Pay telephones include coin-operated and coinless phones owned by local telephone companies, independent companies and interexchange carriers. The Public Pay Telephone Surcharge applies to the initial completed call and any reoriginated call (e.g., using the "#" symbol). The Public Pay Telephone Surcharge does not apply to calls placed from pay telephones at which the Customer pays for service by inserting coins during the progress of the call.

Whenever possible, the Public Pay Telephone Surcharge will appear on the same invoice containing the usage charges for the surcharged call. In cases where proper pay telephone coding digits are not transmitted to the Company prior to completion of a call, the Public Pay Telephone Surcharge may be billed on a subsequent invoice after the Company has obtained information from a carrier that the originating station is an eligible pay telephone.

Rate Per Call: \$0.96

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.5 Custom Calling Features**

The features in this section are made available to Residential Customers on a per use basis. All features are provided subject to availability. Customers may utilize each feature by dialing the appropriate access code. The Customer will be billed the per feature activation charge shown in the table below each time a feature is used by the Customer. Transmission levels for calls forwarded or calls placed or received using optional calling features may not be acceptable for all or some uses in some cases.

**5.5.1 Feature Descriptions**

Call Forwarding – Fixed, Busy Line No Answer – This feature, when activated, redirects attempted terminating calls to another Customer-specified line. Call originating ability is not affected by Call Forwarding – Fixed, Busy Line No Answer. The calling party is billed for the call to the called number. If the forwarded leg of the call is chargeable, the Customer with the Call Forwarding – Fixed, Busy Line No Answer is billed for the forwarded leg of the call. Calls cannot be transferred to an International Direct Distance Dialing number.

Speed Calling – This feature allows a user to dial selected numbers by means of an abbreviated code. This feature is available in either an 8 number or a 30 number capacity. The Speed Calling list can only accommodate a number consisting of 15 digits or less.

Caller ID - Allows a Customer to see a caller's telephone number previewed on a display screen before the call is answered. Caller ID requires the use of specialized CPE not provided by the Company

Caller ID with Name – Allows a Customer to see a caller's name and number previewed on a display screen before the call is answered. Caller ID with Name requires the use of specialized CPE not provided by the Company.

Call Forwarding – A Customer activated feature that automatically transfers all incoming calls from the Customer's telephone number to another dialable telephone number until the Customer deactivates the feature. If forwarded to a long distance number the Subscriber will incur the long distance charges.

Call Trace – Allows a called party to initiate an automatic trace of the last call received. Call Trace is available on a usage basis only.

Call Blocking – Allows Customer to block calls from different telephone numbers. A screening list is created by Customer either by adding the last number associated with the line (incoming or outgoing) or by pre-selecting the telephone number to be blocked. Callers from such numbers hear an announcement that the calling party is not accepting calls and Customer's phone will not ring.

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.5 Custom Calling Features****5.5.1 Feature Descriptions (Cont'd)**

Call Waiting - Call Waiting provides a tone signal to indicate to a Customer already engaged in a telephone call that a second caller is attempting to dial in. This feature permits the Customer to place the first call on hold, answer the second call and then alternate between both calls.

Call Waiting with Caller ID with Name – Call Waiting with Caller ID with Name provides a tone signal to indicate to a Customer already engaged in a telephone call that a second caller is attempting to dial in and allows a Customer to see a caller's name and number previewed on a display screen. This feature permits the Customer to place the first call on hold, answer the second call and then alternate between both calls.

Three Way Calling – Permits the Customer to add a third party to an established connection. When the third party answers, a two-way conversation can be held before adding the original party for a three-way conference.

Call Return - Allows Customer to automatically dial the number of last incoming call, whether or not Customer answered phone.

Anonymous Call Rejection - Allows you to refuse calls from those who have blocked their numbers.

Repeat/Auto Dial – A feature that, when activated, automatically checks a busy number and when the line is free, rings the Customer back and completes the call.

Caller Identification Blocking: Allows the name and number of the calling party to be blocked from being transmitted when placing outbound calls.

Per Call Blocking: To activate per-call blocking, a Customer dials a special code prior to placing a call. Blocking will be activated for that outgoing call only. There is no charge for using per call blocking, and it is provided on an unlimited basis.

Per Line Blocking: When blocking is established on the line, it can be deactivated by dialing a code before each call. This one call unblock allows the name and/or number to be sent for that one call only. There is no charge for per line blocking.

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.5 Custom Calling Features****5.5.2 Rates**

<b>FEATURE</b>	<b>RATE</b>	<b>BILLED</b>
Call Forwarding	\$0.50	Per use
Speed Calling	\$3.50	MRC
Caller ID	\$3.50	MRC
Caller ID with Name	\$5.50	MRC
Call Trace	\$0.50	Per use
Call Blocking	\$2.50	MRC
Call Waiting	\$3.50	MRC
Call Waiting with Caller ID with Name	\$5.50	MRC
Three Way Calling	\$3.50	MRC
Call Return	\$0.50	Per use
Anonymous Call Rejection	\$2.50	MRC
Repeat/Auto Dial	\$0.50	Per use
Caller Identification Blocking	\$0.50	Per use
Per Call Blocking	No charge	
Per Line Blocking	No charge	

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)**

**5.6 Directory Assistance Services**

A Customer may obtain assistance, for a charge, in determining a telephone number by dialing Directory Assistance Service.

**5.6.1 Basic Directory Assistance**

The rates specified following apply when Customers request Company assistance in determining telephone numbers of Customers who are located within the State.

A maximum of two (2) requested telephone numbers are allowed per call.

**A. Exemptions**

A business or residence main telephone exchange line may be registered for exemption from Directory Assistance charges where one of the users of the line is considered to be legally blind, visually or physically handicapped, or where the user's handicap prevents the dialing of a telephone in a conventional manner or permits only the dialing of "0." Requests for exemption must be accompanied by certification of the handicap. Acceptable certifications include those signed by a physician, issued by a state agency qualified to certify such handicaps or pre-existing certifications establishing visual or physical inability to use a directory such as those which qualify the handicapped person for an income tax exemption or social security benefits on the basis of blindness or physical disability or for use of the facilities of any agency for the blind.

**B. Allowances**

There are no call allowances for Directory Assistance Service.

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)**

**5.6 Directory Assistance Services (Cont'd)**

**5.6.1 Rates**

**A. Basic Directory Assistance**

	<u>Rate</u>
Direct dialed, per call	\$0.75

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.7 Busy Line Verification and Emergency Interrupt Service**

Upon request of a calling party, the Company will verify a busy condition on a designated local service line. The operator will determine if the line is clear or in use and report to the calling party. At the request of the Customer, the operator will interrupt the call on the busy line. Emergency Interruption is only permitted in cases where the calling party indicates an emergency exists and requests interruption and is performed once the line status has been determined through the Busy Line Verification process.

If the Customer has the operator interrupt a call, both the Busy Line Verification and the Emergency Interrupt charge will apply.

No charge will apply when the calling party advises that the call is to or from an official public emergency agency. Busy Verification and Interrupt Service is furnished where and to the extent that facilities permit.

The Customer shall indemnify and save the Company harmless against all claims that may arise from either party to the interrupted call or any person.

	<u>Per Call</u>
Busy Line Verification, each occasion	\$2.00
Emergency Interruption	\$2.50

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.8 Directory Listing Service****5.8.1 General**

The Company will contract with other Telephone Utilities to issue directories in accordance with the dictates of South Carolina Regulation 103-631. The following rates and regulations apply to standard listings in light face type in the white pages (alphabetical section) of the telephone directory and to the Directory Assistance records of the Company.

Directory listings are limited to such information as is essential to the identification of the listed party. The listing of a service, commodity, or trade name is not permitted unless it is the name, or an integral part of the name, under which the Customer does business.

A listing is limited to one line in the directory, except where in the judgment of the Company, more than one line is required to identify the Customer properly. In such cases, the additional lines required are provided at no extra charge.

Dual name listings are permitted as a regular directory listing for residential service.

Listing services are available with all classes of main telephone exchange service.

**5.8.2 Listings****A. Primary Listing**

One listing, termed the primary listing, is included with each exchange access line and each joint user.

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)**

**5.8 Directory Listing Service (Cont'd)**

**5.8.2 Listings (Cont'd)**

**B. Additional Listings**

Additional listings may be the listings of individual names of the Customer and members of the Customer's household, tenants of residential Customers who lease the Customer's premises for less than one year and do not occupy the premises at the same time as the Customer, members of a firm, officers of a corporation, employees of the Customer or other persons associated in business with the Customer, a business which the Customer owns and cross reference and alternate number listings.

Ordinarily, all additional listings are of the same address and telephone number as the primary listings, except as provided for joint user and alternate number listings.

Special Types of Additional Listings include:

Duplicate Listings – A listing of another name by which the customer is known, such as a nickname, abbreviated name, a name commonly spelled in more than one way, and a name consisting of several words which the public commonly rearranges. The listing may be complete or in a cross-reference form.

Alternate Telephone Numbers – A listing which refers calling parties to another telephone number at certain hours or on certain days or in case no answer is received on the call to the primary number.

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)**

**5.8 Directory Listing Service (Cont'd)**

**5.8.2 Listings (Cont'd)**

**C. Nonpublished Service**

The telephone numbers of nonpublished service are not listed in either the Company's alphabetical directory or Directory Assistance records available to the general public.

Incoming calls to nonpublished service will be completed by the Company only when the calling party places the call by number, and no exception will be made, nor will the Customer be called to determine whether he/she wishes to receive the call, even though it appears that the calling party desires the connection because of an emergency.

The Company is not responsible for any claims made or liability arising from failure to receive calls because of this arrangement.

The Subscriber indemnifies and save the Company harmless against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the publication of a non-published service or the disclosing of said number to any person.

**D. Nonlisted Service**

Nonlisted service means the Customer's telephone number is not listed in the directory, but it does appear in the Company's Directory Assistance Records.

The Company is not responsible for any claims made or liability arising from failure to receive calls because of this arrangement.

The Subscriber indemnifies and save the Company harmless against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the publication of a nonlisted service.

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.8 Directory Listing Service (Cont'd)****5.8.3 Rates and Charges**

	<u>Per Month</u>
Primary Listings	\$0.00
Additional Listings	
Residence	\$0.75
Nonpublished Service	
Residence	\$1.50
Nonlisted Service	
Residence	\$1.00
Alternate Listings	
Residence	\$0.75

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**SECTION 5 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****5.9 Carrier Presubscription****5.9.1 General**

Carrier Presubscription is a procedure whereby a Customer designates to the Company the carrier which the Customer wishes to be the carrier of choice for intraLATA and interLATA toll calls. Such calls are automatically directed to the designated carrier, without the need to use carrier access codes or additional dialing to direct the call to the designated carrier. Presubscription does not prevent a Customer who has presubscribed to an intraLATA or interLATA toll carrier from using carrier access codes or additional dialing to direct calls to an alternative long distance carrier on a per call basis.

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**SECTION 6 – MAXIMUM RATES - BASIC SERVICES AND RATES**

**6.1 Call Timing for Usage Sensitive Services**

Where charges for a service are specified based on the duration of use, such as the duration of a telephone call, the following rules apply:

**6.1.1** Calls are measured in durational increments identified for each service. All calls which are fractions of a measurement increment are rounded up to the next whole unit.

**6.1.2** Timing on completed calls begins when the call is answered by the called party. Answering is determined by hardware answer supervision in all cases where this signaling is provided by the terminating local carrier and any intermediate carrier(s).

**6.1.3** Timing terminates on all calls when the calling party hangs up or the Company's network receives an off-hook signal from the terminating carrier.

**6.2 Distance Calculations**

The Company does not offer distance sensitive services.

**6.3 Rate Periods for Time of Day Sensitive Services**

The Company does not offer time of day sensitive services.

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**SECTION 6 – MAXIMUM RATES - BASIC SERVICES AND RATES (Cont'd)**

**6.4 Local Exchange Service**

**6.4.1 General**

The Company offers Basic Local Service to customers seeking basic local exchange services. Voice Mail and other Custom Calling Features are available to Basic Local Service customers by selecting such services a la carte.

The Company provides Customers with the option of obtaining a Primary Line and Secondary Line per account:

**A. Primary Line**

The initial local exchange access line per account.

**B. Secondary Line**

The second or additional residential local exchange access line, billed to the same address as the Primary Line, the Secondary Line will share the monthly call allowance with the Primary Line. The Secondary Line does not automatically include or share any Custom Calling Features. Feature Packages may be purchased separately.

Should a Customer with both lines opt to disconnect the Primary Line, the remaining Secondary Line will automatically convert to a Primary Line with all features and functionality of such, and at the Primary Line monthly recurring rate.

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**SECTION 6 – MAXIMUM RATES - BASIC SERVICES AND RATES (Cont'd)****6.5 Local Dialtone Service****6.5.1 General**

The Company offers local dialtone service to customers in the Exchange Areas listed in Section 3.1. Local dialtone service allows customers to initiate and terminate calls within their local calling areas.

**6.5.2 Rates**

A.	Service Connection Fee, one-time charge per line:	
	Primary Line	\$21.90
	Secondary Line	\$21.90
B.	Monthly Rate	
	Primary Line	\$69.90
	Secondary Line	\$69.90

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**SECTION 6 – MAXIMUM RATES - BASIC SERVICES AND RATES (Cont'd)****6.6 Basic Local Service Package****6.6.1 General**

Basic Local Service Package provides customers with local dialtone service and includes the Customer Calling features listed below:

Caller ID – Allows a Customer to see a caller's number previewed on a display screen before the call is answered. Caller ID requires the use of specialized CPE not provided by the Company.

Call Waiting - Call Waiting provides a tone signal to indicate to a Customer already engaged in a telephone call that a second caller is attempting to dial in. This feature permits the Customer to place the first call on hold, answer the second call and then alternate between both calls.

Three Way Calling – Permits the Customer to add a third party to an established connection. When the third party answers, a two-way conversation can be held before adding the original party for a three-way conference.

**6.6.2 Rates**

A.	Service Connection Fee, one-time charge per line:	
	Primary Line	\$39.90
	Secondary Line	\$39.90
B.	Monthly Rate	
	Primary Line	\$89.90
	Secondary Line	\$89.90

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES****7.1 Service Change Charges**

Non-recurring charges apply to processing Service Orders for new service, for changes in service, and for changes in the Customer's primary interexchange carrier (PIC) code.

**7.1.1 Service Order Charges**

Transfer of Service Charge, Primary Line – applies to the first line of a Transfer of Service Order (TOS), when a customer requests a move or change in physical location. This charge applies whether a customer changes telephone number or not. If, in addition, the Customer requests the telephone number be changed, a separate charge may apply.

Transfer of Service Charge, Secondary Line – applies to the second, or third, etc., line of a Transfer of Service Order (TOS), when a customer requests a move or change in physical location. This charge applies whether a customer changes telephone number or not. If, in addition, the Customer requests the telephone number be changed, a separate charge may apply.

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.1 Service Order and Change Charges (Cont'd)****7.1.2 Change Order Charges**

Change Order Charges apply to work associated with providing exchange line service or customer-requested changes to existing services. One charge applies for each change order requested by the customer. If multiple changes listed below are requested by the Customer and occur on the same order/request one charge only applies. A Change Order Service Charge applies to the following customer-initiated changes:

Custom Calling Feature Change Order – applies when a Customer requests a change, adding or removing a custom calling feature.

Telephone Number Change Order – applies to each telephone number change request/order.

Listing Change Charge – applies when a Customer requests/orders a change to add or delete a white pages listing or requests a change to add/delete listings. This charge also applies to request for Non-Published or Non-Listed numbers.

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.1 Service Order and Change Charges (Cont'd)****7.1.3 Rates**

<u>Service Order Charges</u>	<u>Rates</u>
Primary Service Connection Charge	*
Secondary Service Connection Charge	*
Transfer of Service Charge, Primary Line	\$80.00
Transfer of Service Charge, Secondary Line	\$40.00
Service Order Charge	N/A
 <u>Change Order Service Charges</u>	
Custom Calling Feature Change Order	\$30.00
Telephone Number Change Order	\$10.00
Listing Change Charge	\$10.00

\*Service Connection charges are listed with the rates for each specific service tariffed.

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.2 Restoration of Service**

A restoration charge applies to the restoration of suspended service and facilities because of nonpayment of bills and is payable at the time that the restoration of the suspended service and facilities is arranged. The restoration charge does not apply when, after disconnection of service, service is later re-installed.

	<u>Rate</u>
Per occasion	\$50.00

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.3 Premise Visit and After Hours Maintenance/Installation Charges**

## Premise Visit Charges:

	<u>Rate</u>
First 15 minutes	\$45.00
Each subsequent 15 minutes	\$25.00

## After Hours Maintenance/Installation Charges:

	<u>Rate</u>
First 15 minutes	\$45.00
Each subsequent 15 minutes	\$25.00

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**SECTION 7 – MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.4 Public Telephone Surcharge**

In order to recover the Company's expenses to comply with the FCC's pay telephone compensation plan effective on October 7, 1997 (FCC 97-371), an undiscountable per call charge is applicable to all intrastate calls that originate from any pay telephone used to access Company provided services. This surcharge, which is in addition to standard tariffed usage charges and any applicable service charges and surcharges associated with service, applies for the use of the instrument used to access Company provided service and is unrelated to the service accessed from the pay telephone.

Pay telephones include coin-operated and coinless phones owned by local telephone companies, independent companies and interexchange carriers. The Public Pay Telephone Surcharge applies to the initial completed call and any reoriginated call (e.g., using the "#" symbol). The Public Pay Telephone Surcharge does not apply to calls placed from pay telephones at which the Customer pays for service by inserting coins during the progress of the call.

Whenever possible, the Public Pay Telephone Surcharge will appear on the same invoice containing the usage charges for the surcharged call. In cases where proper pay telephone coding digits are not transmitted to the Company prior to completion of a call, the Public Pay Telephone Surcharge may be billed on a subsequent invoice after the Company has obtained information from a carrier that the originating station is an eligible pay telephone.

Maximum Rate Per Call: \$0.96

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.5 Custom Calling Features**

The features in this section are made available to Residential Customers on a per use basis. All features are provided subject to availability. Customers may utilize each feature by dialing the appropriate access code. The Customer will be billed the per feature activation charge shown in the table below each time a feature is used by the Customer. Transmission levels for calls forwarded or calls placed or received using optional calling features may not be acceptable for all or some uses in some cases.

**7.5.1 Feature Descriptions**

Call Forwarding – Fixed, Busy Line No Answer – This feature, when activated, redirects attempted terminating calls to another Customer-specified line. Call originating ability is not affected by Call Forwarding – Fixed, Busy Line No Answer. The calling party is billed for the call to the called number. If the forwarded leg of the call is chargeable, the Customer with the Call Forwarding – Fixed, Busy Line No Answer is billed for the forwarded leg of the call. Calls cannot be transferred to an International Direct Distance Dialing number.

Speed Calling – This feature allows a user to dial selected numbers by means of an abbreviated code. This feature is available in either an 8 number or a 30 number capacity. The Speed Calling list can only accommodate a number consisting of 15 digits or less.

Caller ID - Allows a Customer to see a caller's telephone number previewed on a display screen before the call is answered. Caller ID requires the use of specialized CPE not provided by the Company

Caller ID with Name – Allows a Customer to see a caller's name and number previewed on a display screen before the call is answered. Caller ID with Name requires the use of specialized CPE not provided by the Company.

Call Forwarding – A Customer activated feature that automatically transfers all incoming calls from the Customer's telephone number to another dialable telephone number until the Customer deactivates the feature. If forwarded to a long distance number the Subscriber will incur the long distance charges.

Call Trace – Allows a called party to initiate an automatic trace of the last call received. Call Trace is available on a usage basis only.

Call Blocking – Allows Customer to block calls from different telephone numbers. A screening list is created by Customer either by adding the last number associated with the line (incoming or outgoing) or by pre-selecting the telephone number to be blocked. Callers from such numbers hear an announcement that the calling party is not accepting calls and Customer's phone will not ring.

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.5 Custom Calling Features****7.5.1 Feature Descriptions (Cont'd)**

Call Waiting - Call Waiting provides a tone signal to indicate to a Customer already engaged in a telephone call that a second caller is attempting to dial in. This feature permits the Customer to place the first call on hold, answer the second call and then alternate between both calls.

Call Waiting with Caller ID with Name – Call Waiting with Caller ID with Name provides a tone signal to indicate to a Customer already engaged in a telephone call that a second caller is attempting to dial in and allows a Customer to see a caller's name and number previewed on a display screen. This feature permits the Customer to place the first call on hold, answer the second call and then alternate between both calls.

Three Way Calling – Permits the Customer to add a third party to an established connection. When the third party answers, a two-way conversation can be held before adding the original party for a three-way conference.

Call Return - Allows Customer to automatically dial the number of last incoming call, whether or not Customer answered phone.

Anonymous Call Rejection - Allows you to refuse calls from those who have blocked their numbers.

Repeat/Auto Dial – A feature that, when activated, automatically checks a busy number and when the line is free, rings the Customer back and completes the call.

Caller Identification Blocking: Allows the name and number of the calling party to be blocked from being transmitted when placing outbound calls.

Per Call Blocking: To activate per-call blocking, a Customer dials a special code prior to placing a call. Blocking will be activated for that outgoing call only. There is no charge for using per call blocking, and it is provided on an unlimited basis.

Per Line Blocking: When blocking is established on the line, it can be deactivated by dialing a code before each call. This one call unblock allows the name and/or number to be sent for that one call only. There is no charge for per line blocking.

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.5 Custom Calling Features****7.5.2 Rates**

<b>FEATURE</b>	<b>RATE</b>	<b>BILLED</b>
Call Forwarding	\$1.00	Per use
Speed Calling	\$7.00	MRC
Caller ID	\$7.00	MRC
Caller ID with Name	\$11.00	MRC
Call Trace	\$1.00	Per use
Call Blocking	\$5.00	MRC
Call Waiting	\$7.00	MRC
Call Waiting with Caller ID with Name	\$11.00	MRC
Three Way Calling	\$7.00	MRC
Call Return	\$1.00	Per use
Anonymous Call Rejection	\$5.00	MRC
Repeat/Auto Dial	\$1.00	Per use
Caller Identification Blocking	\$1.00	Per use
Per Call Blocking	No charge	
Per Line Blocking	No charge	

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)**

**7.6 Directory Assistance Services**

A Customer may obtain assistance, for a charge, in determining a telephone number by dialing Directory Assistance Service.

**7.6.1 Basic Directory Assistance**

The rates specified following apply when Customers request Company assistance in determining telephone numbers of Customers who are located within the State.

A maximum of two (2) requested telephone numbers are allowed per call.

**A. Exemptions**

A business or residence main telephone exchange line may be registered for exemption from Directory Assistance charges where one of the users of the line is considered to be legally blind, visually or physically handicapped, or where the user's handicap prevents the dialing of a telephone in a conventional manner or permits only the dialing of "0." Requests for exemption must be accompanied by certification of the handicap. Acceptable certifications include those signed by a physician, issued by a state agency qualified to certify such handicaps or pre-existing certifications establishing visual or physical inability to use a directory such as those which qualify the handicapped person for an income tax exemption or social security benefits on the basis of blindness or physical disability or for use of the facilities of any agency for the blind.

**B. Allowances**

There are no call allowances for Directory Assistance Service.

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**SECTION 7 –MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)**

**7.6 Directory Assistance Services (Cont'd)**

**7.6.1 Rates**

**A. Basic Directory Assistance**

	<u>Rate</u>
Direct dialed, per call	\$1.50

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**SECTION 7 – MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.7 Busy Line Verification and Emergency Interrupt Service**

Upon request of a calling party, the Company will verify a busy condition on a designated local service line. The operator will determine if the line is clear or in use and report to the calling party. At the request of the Customer, the operator will interrupt the call on the busy line. Emergency Interruption is only permitted in cases where the calling party indicates an emergency exists and requests interruption and is performed once the line status has been determined through the Busy Line Verification process.

If the Customer has the operator interrupt a call, both the Busy Line Verification and the Emergency Interrupt charge will apply.

No charge will apply when the calling party advises that the call is to or from an official public emergency agency. Busy Verification and Interrupt Service is furnished where and to the extent that facilities permit.

The Customer shall indemnify and save the Company harmless against all claims that may arise from either party to the interrupted call or any person.

	<u>Per Call</u>
Busy Line Verification, each occasion	\$4.00
Emergency Interruption	\$5.00

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**SECTION 7 – MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)**

**7.8 Directory Listing Service**

**7.8.1 General**

The following rates and regulations apply to standard listings in light face type in the white pages (alphabetical section) of the telephone directory and to the Directory Assistance records of the Company.

Directory listings are limited to such information as is essential to the identification of the listed party. The listing of a service, commodity, or trade name is not permitted unless it is the name, or an integral part of the name, under which the Customer does business.

A listing is limited to one line in the directory, except where in the judgment of the Company, more than one line is required to identify the Customer properly. In such cases, the additional lines required are provided at no extra charge.

Dual name listings are permitted as a regular directory listing for residential service.

Listing services are available with all classes of main telephone exchange service.

**7.8.2 Listings**

**A. Primary Listing**

One listing, termed the primary listing, is included with each exchange access line and each joint user.



**SECTION 7 – MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.8 Directory Listing Service (Cont'd)****7.8.2 Listings (Cont'd)****B. Additional Listings**

Additional listings may be the listings of individual names of the Customer and members of the Customer's household, tenants of residential Customers who lease the Customer's premises for less than one year and do not occupy the premises at the same time as the Customer, members of a firm, officers of a corporation, employees of the Customer or other persons associated in business with the Customer, a business which the Customer owns and cross reference and alternate number listings.

Ordinarily, all additional listings are of the same address and telephone number as the primary listings, except as provided for joint user and alternate number listings.

Special Types of Additional Listings include:

Duplicate Listings – A listing of another name by which the customer is known, such as a nickname, abbreviated name, a name commonly spelled in more than one way, and a name consisting of several words which the public commonly rearranges. The listing may be complete or in a cross-reference form.

Alternate Telephone Numbers – A listing which refers calling parties to another telephone number at certain hours or on certain days or in case no answer is received on the call to the primary number.

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**SECTION 7 – MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.8 Directory Listing Service (Cont'd)****7.8.2 Listings (Cont'd)****C. Nonpublished Service**

The telephone numbers of nonpublished service are not listed in either the Company's alphabetical directory or Directory Assistance records available to the general public.

Incoming calls to nonpublished service will be completed by the Company only when the calling party places the call by number, and no exception will be made, nor will the Customer be called to determine whether he/she wishes to receive the call, even though it appears that the calling party desires the connection because of an emergency.

The Company is not responsible for any claims made or liability arising from failure to receive calls because of this arrangement.

The Subscriber indemnifies (i.e., promises to reimburse the Company for any amount the Company must pay as a result of) and save the Company harmless against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the publication of a non-published service or the disclosing of said number to any person.

**D. Nonlisted Service**

Nonlisted service means the Customer's telephone number is not listed in the directory, but it does appear in the Company's Directory Assistance Records.

The Company is not responsible for any claims made or liability arising from failure to receive calls because of this arrangement.

The Subscriber indemnifies (i.e., promises to reimburse the Company for any amount the Company must pay as a result of) and save the Company harmless against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the publication of a nonlisted service.

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**SECTION 7 – MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.8 Directory Listing Service (Cont'd)****7.8.3 Rates and Charges**

	<u>Per Month</u>
Primary Listings	\$0.00
Additional Listings	
Residence	\$1.50
Nonpublished Service	
Residence	\$3.00
Nonlisted Service	
Residence	\$2.00
Alternate Listings	
Residence	\$1.50

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**SECTION 7 – MAXIMUM RATES - MISCELLANEOUS SERVICES AND RATES (Cont'd)****7.9 Carrier Presubscription****7.9.1 General**

Carrier Presubscription is a procedure whereby a Customer designates to the Company the carrier which the Customer wishes to be the carrier of choice for intraLATA and interLATA toll calls. Such calls are automatically directed to the designated carrier, without the need to use carrier access codes or additional dialing to direct the call to the designated carrier. Presubscription does not prevent a Customer who has presubscribed to an intraLATA or interLATA toll carrier from using carrier access codes or additional dialing to direct calls to an alternative long distance carrier on a per call basis.

**7.10 Promotional Offerings**

The Company will submit Promotional Offerings by transmittal letter to the Commission and the ORS outlining the promotion, listing the service being promoted with beginning and termination dates of such. Promotional Offerings will not be filed within the Company's Tariff.

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## **Exhibit G**

### **Proposed Notice of Filing and Hearing**

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**

**DOCKETING DEPARTMENT**

**NOTICE OF FILING AND HEARING**

**DOCKET NO. 2009-\_\_\_\_\_-c**

Broadview Networks, Inc., has filed an Application with the Public Service Commission of South Carolina ("Commission"), for a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange telecommunications services throughout the State of South Carolina, pursuant to S.C. Code Ann. § 58-9-280 and Section 253 of the Telecommunications Act of 1996, 47 U.S.C. §253 (1996). Applicant also requests that the Commission regulate its local exchange service in accordance with the principles established for flexible regulation by Order No. 96-165 in Docket No. 97-467-C.

A copy of the Application is on file in the offices of the Public Service Commission of South Carolina, 101 Executive Center Drive, Saluda Building, Columbia, SC 29210; the Commission's website at 222.psc.sc.gov, and is available through John J. Pringle, Jr., Ellis, Lawhorne & Sims, P.A. P. O. Box 2285, Columbia, SC 29202.

A public hearing, if scheduled, will be held in Columbia, South Carolina in the offices of the Commission at the above address, for the purpose of receiving testimony and other evidence from all interested parties regarding this Application. The time and date of this hearing will be furnished to all interested parties at a later date.

Any person who wishes to participate in this matter, as a party of record with the right of cross-examination should file a Petition to Intervene in accordance with the Commission's Rules of Practice and Procedure on or before \_\_\_\_\_, 2009 and indicate the amount of time required for his presentation. Please include an email address for receipt of future Commission correspondence in the Petition to Intervene. *Please refer to Docket No. 2009-\_\_\_\_\_-C.*

Any person who wishes to testify and present evidence at the hearing should notify the Docketing Department in writing at the address below, the Office of Regulatory Staff at Post Office Box 11263, Columbia, SC 29211, and John J. Pringle, Esq. at the above address, on or before \_\_\_\_\_, 2009, and indicate the amount of time required for his presentation. *Please refer to Docket No. 2009-\_\_\_\_\_-C.*

Any person who wishes to be notified of any change in the hearing, but does not wish to present testimony or be a party of record, may do so by notifying the Docketing Department in writing at the address below on or before \_\_\_\_\_, 2009. *Please refer to Docket No. 2009-\_\_\_\_\_-C.*

**PLEASE TAKE NOTICE:** Any person who wishes to have his or her comments considered as part of the official record of this proceeding **MUST** present such comments, in person, to the Commission during the hearing.

Persons seeking information about the Commission's Procedures should contact the Commission at (803) 896-5100.

Public Service Commission of South Carolina  
ATTN: Docketing Department  
Post Office Drawer 11649  
Columbia, South Carolina 29211

October\_\_\_\_\_-09